

convenient right of way over their line for his implements, carts, and other vehicles. The company do not appear to be either obliged or authorized to go upon the land of the owner for any purpose connected with the making of the crossing. If a convenient crossing cannot be made without the building of approaches on the land of the owner, then the presumption would be that the work upon his own land must be done by the owner, in the absence of a special agreement relating to it, and that the expense of such work must be taken into account in fixing the original compensation to be paid to him for the severance of his property by the owner. This would obviously be the case were the land owner affected injuriously by the construction of the railway by being obliged to construct and keep in repair a greater length of drains upon his own land, for instance. *Town of Peterborough v. Grand Trunk R. W. Co.*, 32 O. R. 154, affirmed by the Court of Appeal, 1 O. L. R. 144, seems against the view that an implied liability exists compelling the company perpetually to repair a work which is not upon their own land, even though originally constructed by them. There is no evidence here to support an agreement on the part of the company to do so in this case, and no such agreement is alleged.

The only want of repair complained of, and to which the accident was due, was with regard to the approach upon the land occupied by plaintiff, and I can find no duty, either express or implied, cast upon defendants to keep this portion of the approach in repair. There was, therefore, no evidence to leave to the jury, and the defendants' motion for a nonsuit should be granted, and the action dismissed with costs.

MEREDITH, C.J.

JUNE 1ST, 1903.

CHAMBERS.

MORLEY v. CANADA WOOLLEN MILLS CO.

*Pleading—Statement of Claim—Enlargement of Claim made by Writ—Wrongful Dismissal of Servant—Introductory Statement—Depreciation in Stock of Company—Representations—Particulars.*

Appeal by defendants from order of Master in Chambers, ante 457.

H. Cassels, K.C., for defendants.

C. A. Moss, for plaintiff.

MEREDITH, C.J., dismissed the appeal with costs to plaintiff in any event.