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COURT OF APPEAL.

MARCH 24TH, 1910.

*RE DAVIES AND JAMES BAY R. W. CO.

Railway—Expropriation of Land—Other Lands Injurious-ly Affected—Dominion Railway Act—Compensation — Arbitration and Award—Expenses of Arbitration—Appeal—Duty of Appellate Court—Value of Lands — Compensation for Injury—Amounts not Separated in Award — Reduction of Amount Awarded—Interference with Working of Farm — Expense of Construction of New Way—Cost of Maintenance—Interest on Amount Awarded—Jurisdiction of Arbitrators.

Appeal by the railway company, the contestants, from an award of arbitrators upon an arbitration between the appellants and Robert Davies, the claimant, under the Dominion Railway Act.

The claimant was the owner of a parcel of farm lands known as "Thorncliffe Farm," in the township of York, containing about 465 acres.

Through the enclosed portion, and contiguous to the eastern boundary of the farm, a stream, a branch of the Don river, flows from the northern to the southern boundary, where it meets and joins the main stream, which traverses a portion of the southern part of the farm.

In 1905 the contestants, in the exercise of their powers under the Railway Act, gave notice to the claimant of their intention to expropriate, for the purposes of their right of way, a portion of the southern parts of lots 6 and 7, being some of that part of Thorncliffe farm which lies in the northern valley of the Don. The parcel proposed to be taken was 100 feet in width, and en-

* This case will be reported in the Ontario Law Reports.