

producer of the oil so allotted and secured to him by the terms of the instrument.

In my opinion, the appeal fails and should be dismissed.

OSLER, GARROW, and MACLAREN, J.J.A., concurred.

MEREDITH, J.A., dissenting, was of opinion that the appeal should be allowed and the action dismissed, for reasons stated in writing.

JUNE 15TH, 1910.

FELKER v MCGUIGAN CONSTRUCTION CO.

Statutes—7 Edw. VII. ch. 19, secs. 8, 9 (O.)—9 Edw. VII. c. 18, sec. 10 (O.)—Hydro-Electric Power Commission—Erection of Transmission Line — Power to Enter upon Private Lands against Will of Owner and without Payment of Compensation —“ Acquire ”—Authority of Lieutenant-Governor in Council.

Appeal by the plaintiff from the judgment of FALCONBRIDGE, C.J.K.B., at the trial, dismissing the action with costs.

The action was for trespass to land. The defendants justified their entry upon the plaintiff's land under the legislation respecting the Hydro-Electric Power Commission, 7 Edw. VII. ch. 19 and 9 Edw. VII. ch. 18, sec. 10.

No question of fact was involved. Before action the plaintiff was offered \$500 as payment for the right to erect a tower upon her land and the right of passage over it of the transmission line, the attempted construction of which constituted the trespass complained of.

The sole question in the action was, whether the above statutes, or either of them, authorised an entry, under the direction of the Commission, upon private lands, against the will of the owner, before payment of compensation.

The appeal was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

J. H. Moss, K.C., for the plaintiff.

C. H. Ritchie, K.C., and S. A. Johnston, for the defendants.

Moss, C.J.O.:—The statutory provisions under which the defendants justify their acts in relation to the plaintiff's land of which she complains in this action cannot be said to be models of