

BOARD OF RAILWAY COMMISSIONERS.

NOVEMBER 25TH, 1911.

RIDDELL v. GRAND TRUNK RW. CO.

13 Can. Ry. Cas. 216.

Railway—Farm Crossing—Cost of to be Paid by Railway Company
—*Railway Act, ss. 252, 253.*

Applicant was owner of 72 acres, which was a sub-division of a larger farm, which had been provided with a farm crossing.

DOM. RW. BD., ordered Grand Trunk R. Co. to construct a farm crossing for the applicant upon the dividing line between his land and that of his neighbour.

An application disposed of on the material filed with the Board the facts of which are fully set out in the judgment of MILLS, COMR.

MILLS, COMR:—Mr. Riddell has a farm of seventy-two acres, fifty acres north and twenty-five acres south of the Grand Trunk railway; and he has asked for a farm crossing over the railway.

There is no doubt that Mr. Riddell needs a crossing "for the proper enjoyment of his land on the north side of the railway;" and the language of the Railway Act regarding farm crossings (sections 252 and 253) is that

"Every company shall make crossings for persons across whose land the railway is carried, convenient and proper for the crossing of the railway for farm purposes," and that wherever the Board considers a farm crossing necessary, it may "order and direct how, when, where, by whom, and upon what terms and conditions such farm crossing shall be constructed and maintained."

It appears that when the Grand Trunk Railway was constructed (in 1854), the land in question, with half a lot immediately west thereof, was owned by Henry W. Bowen, and that the railway gave Mr. Bowen a crossing which he accepted as sufficient for his farm. Subsequently, however, 72 acres of Mr. Bowen's farm (the east half of the west half of lot 35) was sold two or three times; and it happened that the purchasers rented the 50 acres of it lying north of the railway to owners of adjoining land already provided with crossings; so no separate crossing for these 72 acres was necessary, until it was purchased by Mr. Riddell to be