

Ford Jones, for appellant. *G. Tate Blackstock*, K.C., for respondents.

Quebec.]

[Nov. 29, 1905.]

PERRAULT v. GRAND TRUNK RY. CO.

Railways—Farm crossings—Board of Railway Commissioners—Jurisdiction—Appeal.

Orders directing the establishment of farm crossings over railways subject to the Railway Act, 1903, are exclusively within the jurisdiction of the Board of Railway Commissioners for Canada.

The right claimed by the plaintiff's action, instituted in 1904, to have a farm crossing established and maintained by the railway company cannot be enforced under the provisions of 16 Vict. c. 37 (D.), incorporating the company.

An application to have the appeal quashed on the grounds that the cost of establishing the crossing demanded, together with the damages sought to be recovered by the plaintiff, would amount to less than \$2,000, and that the case did not come within the provisions of the Supreme Court Act permitting appeals from the Province of Quebec, was dismissed.

Lafleur, K.C., and *P. H. Côté*, K.C., and *Beckett*, for appellants. *Beaudin*, K.C., and *J. E. Perrault*, for respondent.

Province of Ontario.

HIGH COURT OF JUSTICE.

Mulock, C.J. Ex., Anglin, J., Clute, J.]

[Nov. 22, 1905.]

SMITH v. TRADERS BANK.

Practice—Striking out pleadings—Final order—Interlocutory order—Rule 261.

Appeal from an Order in Chambers of the County Court judge of the County of Bruce, striking out certain paragraphs of the statement of defence under Rule 261, upon the ground that they disclosed no reasonable defence to the plaintiff's claim.

Held, 1. The order was in its nature final and not merely interlocutory, and an appeal lay under R.S.O. 1897, c. 55, s. 52. While the order stood it disposed of the right of the defendants to set up or have the benefit of any defence which the facts