

removed. Nor do I think sec. 155 has, for the reason that the damages suffered were not sustained by the exercise of the powers given to the railway company. This applies to all damages prior to the building of the new bridge, and as to this branch of the case, the plaintiff is entitled to judgment for the two sums of \$100 and \$460, making \$560.

With reference to the damages allowed, however, for deterioration in the value of the farm and injury to the plaintiff by reason of the construction of the bridge and approaches, as provided by the order of the Railway Commission, I am of opinion that the plaintiff cannot recover in this action. What was done in pursuance of the order was, so far as appears, properly done: i.e., the bridge was of the proper height and properly constructed; the approaches were also of the proper height and properly constructed. But, by reason of the bridge having been raised, the approaches, in order to obtain a suitable and proper grade, had also to be raised, the result being that the approach to the barn was made inaccessible in part, and so offered considerable inconvenience and loss to the plaintiff. This, however, has arisen strictly out of the construction work ordered by the Board, and the Board, in my opinion, in reference to matters of that kind, has, under sec. 59 of the Railway Act, power to award compensation, and this, I think, may be done by a supplemental order. I do not think it was the intention of the Act that a distinct right should be created, giving a new right of action, simply by the fact that the necessary result of complying with the order of the Board was to create conditions which involved loss on the plaintiff. It would be expensive and unseemly that a Board having jurisdiction, not only to direct the work, but afford reasonable compensation for injury by reason of its construction, should not deal with the question of compensation where it has the power to do so, instead of remitting the applicant to another forum for redress.

It is true that in the present case it was unknown at the time whether any injury would result to the plaintiff by reason of the execution of the order of the Board, but that fact having been now ascertained, or being capable of being ascertained, I see no reason why an application should not be made to the Board for such relief as the plaintiff may think himself entitled to in the premises: R. S. C. 1906 ch. 37, secs. 29 and 54.