

The arbitrators (by a majority award) awarded \$814 for the land taken and \$2,686 for loss and damage, making in all \$3,500, with interest from the 4th November, 1912, and the costs of the arbitration.

During the course of the arbitration, William Russell died, and the proceedings were continued in the name of his widow as administratrix of his estate.

The appeal was heard in the Weekly Court, Toronto.

R. B. Henderson, for the railway company.

R. S. Robertson, for the administratrix.

SUTHERLAND, J., in a written judgment, said, after stating the facts, that the evidence as to the value of the farm before the severance was conflicting. The arbitrators had proceeded upon the proper principle—they had endeavoured to ascertain the value of the property before and after taking and fixed the compensation at the difference: *Re Ontario and Quebec R.W. Co. and Taylor* (1884), 6 O.R. 338; *James v. Ontario and Quebec R.W. Co.* (1886-8), 12 O.R. 624, 15 A.R. 1; *Re Hannah and Campbellford Lake Ontario and Western R.W. Co.* (1915), 34 O.L.R. 615.

When the appeal first came on for hearing, counsel for the company suggested that, no reasons for their award having been given by the majority arbitrators, the learned Judge should deal with the case as one of original jurisdiction: *James Bay R.W. Co. v. Armstrong*, [1909] A.C. 624. But reasons were afterwards given by the two arbitrators and placed before the Judge, and so this suggestion was not pressed.

In the award itself the two arbitrators merely indicated the factors of damage which comprised the total sum allowed in the reduction of the value of the land, or the difference before and after the severance. In the circumstances, it would have been better had their reasons been given at the time they made their award: *James Bay R.W. Co. v. Armstrong*, [1909] A.C. at p. 631; *Lake Erie and Northern R.W. Co. v. Schooley* (1916), 53 Can. S.C.R. 416, 423; *Clarkson (Lloyd) v. Campbellford Lake Ontario and Western R.W. Co.* (1916), 21 Can. Ry. Cas. 330, at p. 332, note.

On the whole, the learned Judge came to the conclusion that it was impossible to say that the majority arbitrators proceeded on any wrong principle, or that there was not substantial evidence before them which, if effect was given to it, would warrant the compensation and damages allowed. The arbitrators' findings of fact must be treated with consideration and given effect to,