

La cour d'Appel à confirmé ce jugement.

*Trenholme, J.*—"The notice of expropriation of respondent's property in 1906, was for the building of an electric railway and respondent's property was partly expropriated on that basis. In 1903, the appellant commenced to operate a steam railway in addition to the electric cars, and thereby departed from the kind of road it had undertaken to operate when it expropriated respondent's land. The respondent naturally claims more damages. The damages have increased materially by the operation of a steam railway; there is smoke, danger of fire, danger to cattle, increase in rapidity in cars, and increased frequency of cars.

There is no doubt a large margin of damage between the operation of an electric road and the operation of a steam railway. The respondent got damages for the running of an electric road and they were less than he would have obtained if he had been expropriated for a steam railway.

"The proof of record is overwhelming in respondent's favor. It does not require a great amount of intelligence to see that there was an increase in damages from the day the steam trains were operated.

"The appellant says it is operating the steam train over its own land and it cannot be interfered with. That cannot hold in face of expropriation effected for the express purpose of using the land expropriated for the purposes of an electric railway only.

"The first judge was right in distinguishing between a steam and electric railway as to the amount of damages each respectively causes.

"The case of *Drysdale vs. Dugas*, 6 K. B., 278, is an authority on this question.