

Lamont v. Canadian Transfer Co., 19 O.L.R. 291, considered.
Shirley Denison, K.C., and *C. W. Livingston*, for the appellant company. *J. W. Bain*, K.C., for plaintiff.

Meredith, C.J.O., Maclaren, Magee,
Hodgins, J.J.A.]

[13 D.L.R. 854.

RE KETCHESON AND CANADIAN NORTHERN ONTARIO RY. CO.

1. *Damages—Depreciation—Eminent domain—Railway right-of-way across farm.*

The loss of time and inconvenience of transporting the crop from the part of the farm separated from the buildings by the construction of the railway on a compulsory taking of a strip of land for the right-of-way, is proper to be considered in estimating the damages only in so far as it affects a depreciation of the market value of the land not taken: *Idaho and W.R. Co. v. Coey*, 131 Pac. Rep. 810, approved.

2. *Damages—Eminent domain—Cultivating farm crossed by railway.*

In awarding damages against the railway in eminent domain proceedings in respect of a railway right-of-way across a farm, the inconvenience of transferring machinery and farm implements, and the like, from one part of the farm to another and the inconvenience in farming and cultivating the land, occasioned by the construction of the railroad, are not separate items to be capitalised on an ascertainment of a prospective annual loss to the owner whose farm is divided, but are to be considered only as factors in fixing the depreciation of the market value of the remaining parts of the farm.

3. *Interest on awards.*

Interest on the sum awarded as compensation as of the date of the deposit of the plan and profile, should not be given by arbitrators as a part of their award for land expropriated for railway purposes, and will be struck out as beyond their jurisdiction; the right to interest from that date is conferred under the Railway Act (Can.) and not left to be determined by the arbitrators: *Re Clarke and Toronto Grey & Bruce R. Co.*, 18 O.L.R. 628, referred to; *Re Davies and James Bay R. Co.*, 20 O.L.R. 534, considered.