tered the claimant's property at its junction with the westerly side of the Don Mills road, a highway upon which the eastern and part of the southern side of the farm borders, and proceeded in a westerly direction, for something less than 2,000 feet, across the low lands in the south front of the property, the whole area taken being a little less than 4½ acres.

This proceeding on the contestants' part eventuated in arbitration proceedings before three arbitrators, who, commencing on the 13th February, 1906, ended their task by the publication on the 30th March, 1908, of an award, in which only two of the arbitrators joined, finding the amount of compensation to be paid to the claimant for the land taken, and the damage to the residue of his lands, to be the sum of $30,607.

The appeal was from this award.

The appeal was heard by Moss, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, JJ.A.

E. D. Armour, K.C., and R. B. Henderson, for the appellants.

C. H. Ritchie, K.C., and James Pearson, for the claimant.

MOSS, C.J.O. (after setting out the facts as above):—During the proceedings 33 days or parts of days were occupied in hearing the testimony of some 67 witnesses, whose depositions cover 1,305 printed pages of the case.

The questions involved were the usual ones, viz., the value of the land taken and the amount to be paid by the contestants as and for compensation for damages to other parts of the claimant's lands, if any, injuriously affected by reason of the exercise by the contestants of their statutory power.

It is somewhat surprising to find that comparatively simple questions like these were apparently deemed not capable of solution without such an array of witnesses and such an enormous expenditure of time . . .

That the present system may in its workings bring about such a state of things lends additional force to the remarks of Meredith, C.J., concurred in by Lord Macnaghten, speaking for the Judicial Committee, as to the propriety of devising some means of simplifying the procedure and reducing the expense in cases of this kind: Re Armstrong and James Bay R. W. Co., 12 O. L. R. 137, 142; S. C., sub nom. James Bay R. W. Co. v. Armstrong, [1909] A. C. 624.

In dealing upon this appeal with this mass of testimony, we have before us a statement from the non-assenting arbitrator in which he sets forth, amongst other things, his understanding of