

the track obtain the same ample protection. For, by the conclusion arrived at in the Courts below, as long as the article can be called a crop, and however often it may be moved from place to place, and however far it may travel in Canada, it will always, when and as often as it is placed along the route of a railway, be automatically protected by the statute, a result which, in my opinion, was never intended, and to which the language in no way compels. The language may not be as clear and distinct as it could be made, but, having regard to what was the law before the change, to the evil intended to be remedied, and to the language actually used for the purpose, and reading the whole section together, as of course should be done, I cannot say that I have any doubt that the real intention, and the proper construction, is the limited one which I have pointed out; in other words and to repeat, that "crops" means crops grown or growing upon lands upon and along the route of the railway, and actually situated upon such lands when destroyed. The change was clearly made for the benefit of the owner of such lands in respect of his crops growing or grown upon such lands, and not for the benefit or protection of any one else who might happen to own crops grown outside, but brought within, the protected territory.

For these reasons, I think the appeal should be allowed upon the terms contained in the order granting leave to appeal, namely, that the defendants shall bear their own costs of the appeal, and shall also pay the costs of the appellant.

And the action must be dismissed with costs, including the costs of the motion before the Divisional Court.

MEREDITH, J.A., concurred for reasons stated in writing.

MOSS, C.J.O., OSLER and MACLAREN, J.J.A., also concurred.