

1925

*June 5.
*June 8.CANADIAN NATIONAL RAILWAYS *v.* DELAGEON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC*Negligence—Damages—Orchard—Fire—Quantum of damages.*

APPEAL from the decision of the Court of King's Bench, appeal side, province of Quebec, affirming the judgment of the trial judge and maintaining the respondent's action for damages.

The respondent was the owner of a farm at St. Hilaire, county of Rouville, comprising approximately sixty-six acres of land, of which thirty acres was in orchard, six acres in sugar bush and thirty acres in cultivation.

On or about the 26th of April, 1923, a fire which had been started on the appellant's right of way overran a part of the respondent's farm, and destroyed the orchard and sugar bush. At the trial the appellant declared that it would not contest the fact that the fire had been set by its employees and that the question to be decided was the quantum of damages suffered by the respondent.

The trial judge awarded to the respondent the sum of \$10,000 as damages, and this judgment was affirmed by the Court of King's Bench, Howard J. dissenting.

On the appeal to the Supreme Court of Canada, the judgment of the appellate court was varied by reducing the amount of the damages from \$10,000 to \$7,826.

Appeal allowed with costs.

Perron K.C. and *Jacques Perron* for the appellant.
Monty K.C. and *Delage K.C.* for the respondent.

*PRESENT:—Anglin C.J.C. and Duff, Mignault, Newcombe and Rinfret JJ.