

RAILWAY—Continued.

least one train carrying passengers each way each day." On July 31, 1899, the Attorney-General of New Brunswick gave notice to the plaintiffs that their contract each way each day between A. and B. with respect to running a passenger train must be enforced, but no further proceedings with respect to the matter were taken by the government, though the defendants continued to run a passenger train but one way each day. It did not appear whether the notice of the Attorney-General might not have been given at the plaintiffs' instance. On a motion for an interlocutory mandatory injunction in this suit which was brought to compel the defendants to run a passenger train each way each day between A. and B. *Held*, that no case was made out for relief by mandatory injunction, which will only be granted where necessary for the prevention of serious damage, and that the question raised was merely one of pecuniary damages between the plaintiffs and defendants, for which the defendants were well able to account to the plaintiffs, and which by the lease of 1897 the plaintiffs had agreed to accept in event of their liability, if any, to the government, and that it did not appear that such liability had arisen. *TORQUE VALLEY RAILWAY Co. v. CANADIAN PACIFIC RAILWAY Co.*195

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secured by mortgage — Foreclosure suit—Receiver and manager—Repairs to road—Authority to issue receiver's certificate charging property in priority to debenture security321
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REGISTRY LAWS — Deed — Competing Purchasers — Registry Act, 57 Vict., c. 20, ss. 29, 69—Unregistered Deed —Sale of Part of Lot of Land—Subsequent Registered Mortgage of Remainder of Lot — Reference in Description to Previous Conveyance—Subsequent Deed of Whole Lot—Notice—Priorities.] A part of a lot of land was sold to the plaintiff by M. by deed, which the plaintiff neglected to register. Subsequently M. mortgaged by registered conveyance

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the remainder of the lot to S. The description in the mortgage of the land followed the original description of the whole lot, but "excepted the portion sold and conveyed by the said M. to C. (the plaintiff). Subsequently M. sold and conveyed by registered deed for valuable consideration the whole lot of land to the defendant, who had notice of the mortgage, but not of its contents. By Act 57 Vict., c. 20, s. 29, an unregistered conveyance shall be fraudulent and void against a subsequent purchaser for valuable consideration whose conveyance is previously registered. By section 69 of the Act the registration of any instrument under the Act shall constitute notice of the instrument to all persons claiming any interest in the lands subsequent to such registration. *Held*, that by the Act the registration of the mortgage constituted actual notice of its contents to the defendant, whose title therefore should be postponed to the plaintiff's. *CARROLL v. ROGERS*159

2. — Deed—Quit-claim Deed—Competing Purchasers—Priorities — Registry Act, 57 Vict., c. 20.] It is not a deed of quit-claim where the grantor remises, releases, and quit-claims unto the grantee, his heirs and assigns, a lot of land, and covenants that the land is free from incumbrances made by him, and that he will warrant and defend the same to the grantee, his heirs and assigns, against the demands of all persons claiming by or through the grantor; and the grantee under such a deed, if registered, will not be postponed under the Registry Act, 57 Vict., c. 20, to the equities of a prior purchaser, of which he had no notice. *BOURQUE v. CHAPPELL*187

REFEREE — Fees—When Payable — Proceeding with Reference Where Fees in Jeopardy.] A Referee having entered upon a reference is not entitled to payment of his fees from day to day as a condition of proceeding with the reference. *Semble*, where special circumstances shew a probability that the fees of a Referee will not be paid the Court will require that his fees be secured to him before ordering the reference to be proceeded with. *Ex parte SWEENEY; GALLAGHER v. CITY OF MONTON*...269

2. — Reference—Warrant to Proceed —At Whose Instance Warrant May be Taken Out — Authority of Referee to Order Parties to Proceed—Act 53 Vict., c. 4, s. 160.] By the practice of the Court, and by s. 160 of Act 53 Vict., c. 4, where a reference has been entered upon, a warrant to proceed may be taken out by either party. *Semble*, on a failure to adjourn a reference, the Re-