

construction of a Government railway, the Crown obstructed a highway used by the suppliant in the carriage of such mails and rendered it more difficult and expensive for him to execute his contract. After the contract had been fully performed by both parties, the suppliant sought to maintain an action by petition of right for breach thereof on the ground that there was an implied undertaking on the part of the Crown in making such contract that the Minister of Railways would not so exercise the powers vested in him by statute as to render the execution of the contract by the suppliant more onerous than it would otherwise have been.

Held, that such an undertaking could not be read into the contract by implication.

Ross, Sedgewick & McKay for suppliant.

W. F. Parker for respondent.

THE QUEEN v. FISHER.

Interference with public right of navigation—Injunction to restrain—Jurisdiction of Exchequer Court—Right to authorize such interference since the union of the provinces—Position of provincial legislatures with respect thereto—Right of federal authorities to exercise powers created prior to the Union.

(1) An information at the suit of the Attorney-General to obtain an injunction to restrain defendant from doing acts that interfere with and tend to destroy the navigation of a public harbor is a civil and not a criminal proceeding, and the Exchequer Court has concurrent original jurisdiction over the same under 50-51 Vict., c. 16, s. 17 (D.).

(2) A grant from the Crown which derogates from a public right of navigation is to that extent void unless the interference with such navigation is authorized by Act of Parliament.

(3) The provincial legislatures, since the union of the provinces, cannot authorize such an interference.

(4) Wherever by Act of the provincial legislature, passed before the union, authority is given to the Crown to permit an interference with the public right of navigation, and authority is exercisable by the Governor-General and not by the Lieutenant-Governor of the province.

W. F. Parker for plaintiff.

J. A. Jennison for defendant.

DUBÉ v. THE QUEEN.

[Oct. 14.]

Injury received on Government railway—Negligence—Order for particulars—Practice.

Where in his petition the suppliant alleged in general terms that the injuries he received in an accident on a Government railway in the Province of Quebec resulted from the negligence of the servants of the Crown in charge of the train, and from defects in the construction of the railway, an order was made for the delivery to the respondent of particulars of such negligence and defects.

P. A. Choquette for suppliant.

W. D. Hogg for defendant.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

HIGH COURT OF JUSTICE.

Chancery Division.

STREET, J.]

[Aug. 25.]

BROOKE ET AL. v. THE TORONTO BELT LINE RAILWAY CO.

Railway and railway companies—Expropriation of land—Offer of privileges as compensation—Surveyor's certificate—County judge's jurisdiction—Injunction.

On a motion for an injunction to restrain a railway company from taking possession, under a warrant obtained from a county judge, of certain land different from what was shown on the company's plan deposited under s. 10, s-s. 2, of R.S.O., c. 170,

Held, following *Murphy v. The Kingston & Pembroke Railway Co.*, 17 S.C.R. 582, that the land could not be taken, as it was not shown on any plan so deposited.

Held, also, that as the notice given under s-s. 1, s. 20, R.S.O., c. 170, offered certain privileges in addition to cash, and as the land owner was entitled to have her compensation all in cash, there was no proper notice and no proper surveyor's certificate; and as these are at the very foundation of the county judge's authority, he had acted without jurisdiction.

Held, also, that in the case of a limited jurisdiction, such as that of the judge in this case, the facts which give jurisdiction, and without