

vits in answer do not expressly negative the filing of a plan by the Campbellford, Lake Ontario and Western R. Co.; and there is a general statement in the affidavit of the engineer of construction of that railway that all statutory and other requirements to entitle that company to expropriate the lands in question have been complied with.

The material is defective, whether one railway company or the other is the applicant; the Ontario and Quebec R. Co. having nothing to support their motion for a warrant for lands required for their company, while the other railway company has given no notice for a warrant for possession of lands required in their construction.

The real dispute is whether the land in question is for additional land for a railway already in operation, *i.e.*, the Ontario and Quebec R. Co.—as to which sec. 178 would seem to apply, or whether it is required for the right of way of the Campbellford Railway now under construction. It is said that the amount to be paid into Court will be considerably increased if the land to be taken will, in connection with the Ontario and Quebec Railway lands, form a railway yard.

I do not see that I can amend the proceedings; and must dismiss the application; the costs of which will be—following the order of the learned Chancellor, in *Re Kingston and Pembroke R. Co. and Murphy*, 11 P. R. 304—to the land owner in any event of arbitration.

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HON. MR. JUSTICE LENNOX.

SEPTEMBER 15TH, 1913.

BROWN v. THOMPSON.

5 O. W. N. 19.

*Statute of Limitations—Charge on Land—Power of Attorney—Laches—Forty Years' Delay.*

LENNOX, J., dismissed an action brought upon a power of attorney alleged to form a charge on certain lands in favour of plaintiff's assignor, where no attempt had been made to enforce the alleged charge for over 40 years.

Action for a declaration that plaintiff is entitled to \$333.86 of principal money and \$840.42 for interest—the principal money purporting to be secured to Robert Laurie and Isabella Bald under a power of attorney executed in