

have proceeded by action of trespass to recover the damages which they have sustained, and these damages being clearly sustained by "reason of the railway" within the meaning placed upon those words by the cases in which they have been under consideration, I think that the claim as to them is also within the 27th section of the Act. See *Follis v. Port Hope, etc. R. W. Co.*, 9 C. P. 50; *Kelly v. Ottawa St. R. W. Co.*, 3 O. R. 616; *Booth v. McIntyre*, 31 C. P. 183; *Foran v. McIntyre*, 45 U. C. R. 288; *Beard v. Credit Valley R. W. Co.*, 9 O. R. 616; *Corporation of Brock v. Toronto and Nipissing R. W. Co.*, 37 U. C. R. 372; *Re Ontario and Quebec R. W. Co. & Taylor*, 6 O. R. 338; *May v. Ontario & Quebec R. W. Co.*, 10 O. R. 70.

Unless that section is of no validity, the plaintiffs' rights are, I think, barred by it, excepting as to timber cut outside both the right of way and the six rod belts.

The plaintiffs contend that because the defendants have not shown any order-in-council of the Ontario Government authorizing them to take possession of the land in question for the purposes of their railway, they are not entitled to set up that any of the damage done to the plaintiffs was done by reason of their railway. No authority was cited for this proposition, and the fact being admitted that the railway had been constructed and was in actual operation under the provisions of an Act of the Dominion Parliament before the action was brought, I am unable to see upon what grounds it is to be refused the protection of the clause for the reason suggested.

As it is contended by the defendants that this 27th section is invalid as being *ultra vires* the Dominion Parliament, and they desire an opportunity of raising and arguing the point, I reserve for the present formal judgment in the case in order to afford to the defendants time to give notice under sec. 6 of 46 Vic. ch. 7 (U), and have the question properly brought up.

The learned Judge, on May 23, 1888, delivered formal judgment, as follows:—

1. "I find and declare that the plaintiffs' right to recover damages for the alleged trespasses, so far as such trespasses, if any, were

committed upon or relate to the timber alleged to have been cut upon or removed from the right of way of the defendants, the railway company, and the width of six rods upon each side thereof, is barred by section 27 of R. S. C. ch. 109; and I dismiss so much of the action as relates thereto.

2. I find and declare that the plaintiffs are entitled to recover from the defendants, as damages, the value of the timber, if any cut or removed by them, or any of them, from those portions of the land in the statement of claim mentioned, lying and being more than six rods distant from the right of way of the said railway company"; and his honor directed a reference to ascertain the amount of the damages.

(R. T. H.)

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 9.

Judicial Abandonments.

- Louis Bureau, saddler, Quebec, Feb. 5.
 W. R. Cr peault, dry goods, Kamouraska, Feb. 5.
 Joseph Prosper Desablou, bailiff and leather dealer, Three Rivers, Feb. 1.
 Patrick Grace, trader, township of Wright, Jan. 31.
 Joseph Martineau, trader, Stanfold, Feb. 2.
 J. C. E. Montreuil & Co., grocers, Quebec, Feb. 4.
 Emmanuel Strickland, trader, Buckingham, Jan. 30.
 L. O. Villeneuve, dry goods, Quebec, Feb. 3.

Curators appointed.

- Re Campbell & Jackson*, Montreal.—J. McD. Hains, Montreal, curator, Feb. 6.
Re Ovila Chartrand, Montreal.—A. W. Stevenson, Montreal, curator, Feb. 6.
Re J. C. Dansereau, Montreal.—Kent & Turcotte, Montreal, joint curator, Feb. 6.
Re Solyme Davignon, fils, Iberville.—J. A. Nadeau, Iberville, curator, Jan. 29.
Re Andr  Fontaine.—Bilodeau & Renaud, Montreal, joint curator, Feb. 6.
Re Antoine Gauthier.—C. Desmarteau, Montreal, curator, Feb. 6.
Re C. Z. Langevin, dry goods, St. Sauveur.—H. A. Bedard, Quebec, curator, Feb. 4.
Re Mathieu & Gagnon, Montreal.—Kent & Turcotte, Montreal, joint curator, Feb. 6.
Re B. Maynerd, St. Guillaume.—Kent & Turcotte, Montreal, joint curator, Feb. 7.
Re Zotique Pouliot, L'Islet.—H. A. Bedard, Quebec, curator, Feb. 7.
Re Robitaille et Fils.—C. Desmarteau, Montreal, curator, Feb. 6.
Re Eug. Roy, Quebec.—H. A. Bedard, Quebec, curator, Feb. 6.