

such a street may be acquired and made, or to prevent the acquiring and making of it altogether, and therefore s. 14 of the Railway Act is not ultra vires.

7. Such legislation, in virtue of its power over such railway corporations, as well as such works and undertakings, may confer power to impose such terms as have in this case been imposed upon the plaintiffs, and to deprive such corporations of any right to compensation for lands so taken or injuriously affected; and has conferred such power on the Railway Committee, under s. 14, in such a case as this; which power has been exercised to some extent.

8. Such legislation has not conferred upon the committee power to give the temporary footway in question.

9. Nor any authority to delegate its powers.

10. The work it directs must be constructed under the supervision of an official appointed for that purpose by the committee.

11. The railway company may, if they choose, construct the works directed, under such supervision, instead of permitting the municipality to do so.

H. S. Osler, for plaintiffs. *Fullerton*, Q.C., for defendants.

Meredith, J.] In RE HYNES—HODGINS v. ANDREWS. [August 29.
*Partition — Summary proceeding — Parties — Absentee — Guardian —
 Dispensing with service—Substituted service.*

Where, in a proceeding for partition or sale of lands, begun by summary application, a person interested in the estate, not originally made a party, had been long unheard of, and there was uncertainty whether he were living or dead, an order was made by a judge, under ss. 16 to 20 of the Partition Act, R.S.O. c. 123, which are expressly made applicable by s. 33 of the Judicature Act, R.S.O. c. 51, appointing a guardian and directing that he be served with an office copy of the judgment or order for partition and notice for the absentee.

Semble, that the Master to whom a reference is directed by the judgment or order has power to dispense with service of his warrant or of an office copy of the judgment: Rules 203, 659. *Smith v. Houston*, 15 P.R. 18, discussed.

Semble, also, that the court or judge has power to make an order for substituted service of an office copy of a judgment or order.

Coleridge, for plaintiff. *Essery*, for defendants.

Meredith, J.] DICKERSON v. RADCLIFFE. [August 30.
Costs—Interlocutory order—"Costs in the cause"—Discretion of trial judge.

Where an interlocutory order in an action directs that the costs of certain proceedings shall be "costs in the cause," that is not a final