

[Chan.]

NOTES OF CASES.

[Chan.]

Blake, V. C.]

## THE ATTORNEY-GENERAL V. THE INTERNATIONAL BRIDGE CO.

*Demurrer—Parties—Nuisance.*

An information alleged that the International Bridge Company had constructed and completed the said bridge, and the same was adapted to the passage of railway trains and foot passengers; but that the defendants prevented "persons on foot to cross the said bridge, although willing and offering to pay the lawful tolls provided by the said Act," and that the defendants' intention was "to maintain the said bridge as a railway bridge only, and not as a carriage or foot bridge"; and prayed an injunction to restrain the defendants "from preventing Her Majesty's subjects from using the foot-way of the said bridge at their will and pleasure on the payment of lawful tolls" . . . or binding them from using in the same manner the foot-paths thereof. The information also prayed the removal of the bridge in the event of its not being constructed in the manner contemplated by the Act of Incorporation. In view of the fact that a large sum of money had been expended in the construction of the bridge as it was built, and which had been so built in accordance with the provisions of their Act of Incorporation, the Court allowed a demurrer for want of equity; but, in so far as the information showed an unlawful exclusion of the public from the use of the foot-paths of the bridge, the demurrer was overruled; but, under the circumstances, without costs to either party.

To such an information, a railway company who had become lessees of the bridge, were held to be proper parties.

Blake, V. C.]

[Sept. 24.]

## THE WESTERN INSURANCE CO. V. THE PROVINCIAL INSURANCE CO.

*Re-insurance—Agent of company—Non-payment of premiums*

The agent of the plaintiffs effected a re-insurance with the agent of the defendants, but did not pay the amount of the stipulated premium, the plaintiffs alleging that

it was the custom of agents to give each other credit for such premiums, and settle at the end of the month, when the balance, if any, was paid by the one to the other. The existence of this custom was denied by the defendants, and it was shown that the defendants required all premiums on re-insurances to be paid to their agents in cash, the same as in ordinary insurances, before the insurance should be considered binding, and this was known to the agent of the plaintiffs. A loss having occurred, the plaintiffs sought to compel payment of the amount of such re-insurance; but the Court, under the circumstances, held that the defendants were not bound by what had taken place between the agents, and dismissed the bill with costs.

Full Court.]

[Sept. 24.]

## THE GRAND TRUNK RAILWAY COMPANY V. THE CREDIT VALLEY RAILWAY COMPANY.

*Injunction—Right of way—License of occupation—Practice.*

The principle upon which the Court interferes by injunction is to preserve property in its actual condition until the legal title thereto can be established; and although under the present practice this Court can determine legal rights, still it will not do so upon interlocutory application. Therefore, where two railway companies were in actual possession of a strip of Ordnance lands, 100 feet in width, and along which their tracks were laid, and a third railway company applied for and obtained from the Government of the Dominion a license of occupation of the same strip of land for the purpose of running their track thereon—such license stating that it was not to "operate to imply any covenant or agreement on the part of the Crown to give possession to the licensees, but that such license shall be accepted by them subject to any legal rights, which either the Grand Trunk or the Northern Railway (the two railways so in possession) may hereafter establish in respect of the one hundred feet or any part thereof,"—and in pursuance of such license, the licensees entered upon such strip and proceeded to lay their rails thereon, whereupon a motion was