

there should be no order as to costs. O. H. King, for McDonald, Woodgate, and others. J. H. Moss, K.C., for Finlayson and Dear. J. H. Spence, for Dawson and the Royal Bank of Canada.

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BRAGG V. ORAM—ROSE, J.—MAY 16.

*Injunction—Subdivision of Land according to Registered Plan—Streets Shewn on Plan but not Opened on Ground—Purchase of Blocks according to Plan—Right of one Purchaser to Restrain another from Ploughing Lands Shewn as Streets—Special and Peculiar Damage—Costs.*—An action for an injunction to restrain the defendant from obstructing certain streets, shewn on a plan, by ploughing them and growing crops. The action was tried without a jury at a Toronto sittings. ROSE, J., in a written judgment, said that the plan was registered and shewed streets and small lots. The plaintiff bought, according to the plan, a block near the centre of the subdivision, bounded by four streets. The defendant bought, also according to the plan, nearly all the remainder of the subdivision. The streets shewn on the plan were not opened on the ground, and the defendant has been cultivating some of them with his own land. The defendant did not assert any right to plough up the streets, but said that what he was doing did not harm the plaintiff. There can be no injunction unless the plaintiff does suffer damage, and damage special and peculiar to himself. But the plaintiff desires to sell his land, and to that end takes persons to see it. As to the streets leading directly from his property to Bathurst street, the plaintiff makes a case. The access to his property from Bathurst street will be easier over grass land than over ploughed land and through crops of grain. The plaintiff is entitled to an injunction restraining the defendant from ploughing the streets leading directly to the plaintiff's property from Bathurst street; and the defendant admits that the plaintiff is entitled to keep open such parts of the streets as lie alongside his property. No sufficient reason was disclosed for withholding costs. Judgment for an injunction (limited as above) with costs. J. M. Ferguson, for the plaintiff. W. E. Raney, K.C., for the defendant.