to his sons, W. and E. A short time after making his will, the testator, who was heavily in debt, received an unexpected offer of £15,000 for the said seigniories, and he therefore sold at once, paid his most pressing debts, amounting to £5,400, and the balance of £9,600 was invested by loaning it on the security of real estate.

At his death, his estate appearing to be vacant as regards the £9,600 a curator was appointed.

On the 27th Sept., 1839, the parties entitled under the will, proceeded to divide and apportion their legacies, basing their calculations upon the approximate area of the seigniories bequeathed, and received and collected part of the sums allotted to each by the *partage*.

In an action brought by the respondent against the curator, in order to make him render an account, the Court ordered him to render an account, which he did, and deposited $50,000 and other securities. On a report of distribution being made, F. (the respondent) filed an opposition claiming his share under the will. This opposition was contested by J., the appellant, on the ground, 1st. that the legacies were revoked and that in his capacity of universal legatee to his mother (the legitimate child, he alleged, of the testator and the Indian woman who was *commune en biens*) he was entitled to one half of the proceeds of the said £9,600; and 2nd., that in the event of his claim as to legitimacy and revocation of the legacy being rejected, as by the will the daughters were exempted from the payment of the debts, he, as representing one of the daughters, was entitled to her proportion of £15,000, the net proceeds of the sale.

HELD, affirming the judgment of the Court below, that the sale of the seigniories which were the subject of the legacy in question in this cause, had not, considering the circumstances under which it was made, the effect of defeating that legacy. 2. That J. (the appellant), not having, at the death of his mother, repudiated the *partage* to which she was a party, but on the contrary, having ratified it and acted under it, was estopped from claiming anything more than what was allotted to his mother.

The judgment of the Court below held that as the testator declared that his daughters should not be liable for the payment of his debts, the partition as regards them, should be made of the sum of £15,000, the price obtained from the sale of the seignories bequeathed, and not the £9,600 remaining in his succession at his death. On cross-appeal to the Supreme Court of Canada :—

HELD, that on the pleadings now before the Court, no adjudication can be made as to the sum of £5,400 paid by the curator for the debts, and that in the distribution of the moneys in Court, all that J. (the appellant) can claim to be collocated for, is the unpaid balance (if any) of his mother's share in the moneys, securities, interest and profit of the said sum of £9,600, in accordance with the *partage* of the 27th Sept. 1839.

Appeal dismissed and cross appeal allowed with costs.

Irvine, Q.C., and *Casgrain*, for appellant.
Pouliot, for respondent.

SUPERIOR COURT.

SHERBROOKE, April 30, 1886.

Before BROOKS, J.

THE ONTARIO CAR CO. v. THE QUEBEC CENTRAL RAILWAY CO., and BRANDON ET AL., Oppts.

Railway—Sale of—Bondholders.

HELD :—*That the holders of Railway bonds have no right, as such bondholders and hypothecary creditors, to oppose the sale of the railway.*

PER CURIAM :—

The opposants say that the plaintiffs having obtained a judgment against the defendants, have caused the sheriff of St. Francis to attach defendants' road and advertize the same to be sold in satisfaction of their judgment. That under 44-45 Vict. chap. 40, the defendants were authorized to issue bonds bearing first hypothèque on their road, and such bonds were privileged without registration. That on the 1st July, 1881, the defendants issued bonds for £556,000 sterling; that the oppcsants own 129 of said bonds, equal to £12,900 sterling, for which the property of defendants is hypothecated;