

CHANCERY DIVISION.

Proudfoot, J.]

[May 22.

JENKINS V. THE CENTRAL ONTARIO RY.

*General Railway Act—Compulsory purchase—Mines—R. S. O. c. 165, s. 20, subs. 23.*

Motion for injunction. Where the Special Act of a certain railway incorporated the claims of the General Railway Act relating to powers, plans, and surveys, and lands and their valuation, and also authorized the company from and out of the ores obtained *along their line of railway*, to manufacture iron and steel for their own use, and also gave them power to *acquire mining properties by purchase*; and where the company had chosen a site for a station upon the lands of the plaintiffs, covering a valuable mine of magnetic iron ore, and called upon the plaintiffs to arbitrate, and the plaintiffs were unwilling to part with the land.

*Held*, the plaintiffs could not obtain an injunction restraining the company from expropriating the land in question, even though it were conceded that the company knew of the mine, and that it was the property of the plaintiffs; for the legislature had not seen fit to impose any limitations on the right of the company in locating their line, where there were mines, by giving only a right of way over the surface or otherwise, but had left the expropriation clauses to their full effect, which, in this country, at least, enables the company to acquire the fee of the land.

*Aliter*, if it were proved that the company were acquiring the land not for the purposes for which the powers of compulsorily acquiring it were given, but for some collateral object, as, for example, with the object of afterwards selling it to a third party.

*Semble*, should it afterwards appear that such a scheme was actually in contemplation, and hereafter carried out, means might probably be found to prevent it.

*Semble* also, the powers conferred on the County Judge under the Railway Act of Ontario, R. S. O. c. 165, sect. 20, subs. 23, of ordering immediate possession, before arbitration had, do not exclude the jurisdiction of this Court to enjoin the taking of possession, if the railway company is making use of their powers to attain any object collateral to that for which it was incor-

porated; but if it is not proved that the company is exercising its powers for an unauthorized object, it is not within the jurisdiction of a judge of this Court to interfere with an order for immediate possession granted by a County Judge, though granted *ex parte*.

C. Moss, Q.C., for the plaintiffs.

— for the defendants.

PRACTICE CASES.

Cameron, J.]

[October, 1882.

ONTARIO & QUEBEC RAILWAY CO. V. GRAND TRUNK RAILWAY CO.

*Railway Company—Construction of line—Powers under act of incorporation.*

Upon an application for the appointment of arbitrators to determine the compensation to be paid by the O. & Q. Ry. Co. for crossing the railway of the G. T. Ry. Co. at a point near the Carlton station of the latter company, it was objected by the G. T. Ry. Co. that the O. & Q. Ry. Co. are only authorized by their Act of incorporation to build or construct their railway eastward from the City of Toronto, that the Carlton station of the G. T. Ry. is about three miles north-west of the City of Toronto, that the O. & Q. Ry. Co. have not determined the point in Toronto where the western terminus of the railway shall be, and until that is done the company cannot exercise a right of crossing the G. T. Ry. with a view to uniting its line with the C. V. Ry., which is what it contemplates doing.

*Held*, that there can be no valid objection to the O. & Q. Ry. connecting their line at any point on the C. V. Ry. within the County of York, with the C. V. Ry. without reaching or touching directly the City of Toronto except through such connection.

H. Cameron, Q.C., and G. T. Blackstock, for the O. & Q. Ry. Co.

W. Cassels and C. A. Brough, for the G. T. Ry. Co.

Cameron, J.]

[Jan. 31.

BLAINEY V. MCGRATH.

*Partnership—Costs—R. S. O. ch. 15.*

The plaintiff and defendant entered into a partnership to furnish G. and H. with certain staves for the price of \$2,000. The contract was not