

A railway company is bound under the statutes to take the necessary steps to settle the amount of the compensation to be paid to an owner whose land will be injuriously affected by the construction of the proposed work, and to pay the same, before the land is taken or the right interfered with: *Hendry v. Toronto H. & B. Ry.* 27 O.R. 46; subject, however, to the power conferred upon a Judge of the Court, by s. 25 of the Manitoba Railway Act, to order that immediate possession be given to the Company upon proof that such is necessary to carry on the railway work, and upon the Company furnishing proper security for payment of the compensation to be awarded.

Order that injunction be continued until the trial of the action, but to be dissolved upon the Company giving security to the satisfaction of the judge that it would forthwith proceed under the statutes to settle the amount of the compensation to be awarded to the plaintiffs for the injuries complained of: and for any other injuries to the plaintiffs' land which would be occasioned by the construction and operation of the proposed line of railway. Costs reserved.

O'Connor, for the plaintiffs. *Munson*, K.C., for defendants.

Richards, J.] GARDANIER v. CANADIAN NORTHERN R.W. CO. [Sept 29.
Practice—Examination for discovery—King's Bench Act, Rule 387—Officer of company—Conductor of railway train, when he may be examined as an officer.

Motion to compel the conductor of one of the defendants' trains to attend and be examined, under Rule 387 of the King's Bench Act, for discovery as to the plaintiff's claim in this action, which was for injuries received by him while acting as brakesman on the train. It appeared that the plaintiff went under one of the cars by order of the conductor in charge of the train for the purpose of adjusting some chains, and that, while he was so engaged, the train was started without warning to him and caused the injury complained of.

Held, that the conductor, under the circumstances, was an officer of the railway company within the meaning of the Rule, and must attend and submit to be examined as to his knowledge of the matter in question: *Moxley v. Canada Atlantic Ry. Co.*, 15 S.C.R. 145; *Leitch v. G.T.R. Co.*, 13 Pr. 369, and *Dixon v. Winnipeg*, 10 M.R. 663, followed.

Potts, for plaintiff. *Laird*, for defendants.