

So far the case has been considered as if the lands were situate in Ontario, and as if the ores at the time the power was executed were in this Province. At that time the ores were severed, but still they were in the Province of Quebec where the lands were situated, and as I understand the opinion of the Court of Queen's Bench transmitted to us, these ores were the property of the plaintiff under the deed on which he relied. It appears then, however the law may be if the ores had been in Ontario at the date of the deed, that the plaintiff acquired a title to them in the Province of Quebec where they were then situated; and either title is sufficient for the purpose of the action.

There remains still the matter to be considered upon which the opinion of the Court of Queen's Bench at Montreal, in the Province of Quebec, was taken under the Imperial Statute 22 & 23 Vic., ch. 63. As to cases sent for opinions under that Act see *Topham v. Portland*, 32 L. J., Ch. 257; *Wilson v. Moore*, 12 W. R. 1137.

That Court has decided upon the case which was transmitted to them for their opinion, that the will of Robert Randall authorized a sale of the lands in question, which are situate in Quebec, by the executors or the survivor of them, or by the administrator with the will annexed: that the deed to the plaintiff is a valid deed by the law of Quebec to sell and convey the lands and ores under the will, and that the defendant has no title to the land or ores sufficient to defeat the plaintiff's title.

These answers are all subject to the special circumstances stated in the fifth answer.

The fourth answer is, that the judgment recovered by the now defendant as plaintiff in a suit brought by him against the now plaintiff as defendant has no effect on the title of the now plaintiff, if he has any.

The now defendant declared in effect in that action that the lands in question belonged to him, and that the now plaintiff had troubled him by a suit in respect of the land, and by seizing the ore taken by the now defendant from the land, and by damaging and prejudicing the now defendant's title to the said land.