

of their canal and hydraulic tunnel. The owner of the lands had commenced an action for an injunction restraining the company from proceeding with pending proceedings for expropriation; and had given notice of motion for an interlocutory injunction. By consent the present motion was treated as a motion for judgment in that action. A Chambers motion by the company for leave to pay the amount awarded for these lands, less the costs of arbitration and award, was also (by consent) heard with the other motion.

W. Cassels, K.C., and F. W. Hill, Niagara Falls, for the company.

H. S. Osler, K.C., for William Henson, the land owner, contended that the company's charter, being by Dominion legislation, could give no right to expropriate private property, because the work authorized was a local work coming under sec. 92 of the B. N. A. Act, and it had not been declared by the Parliament of Canada to be for the general advantage of Canada, as provided by clause 10 (c).

The Minister of Justice for Canada and the Attorney-General for Ontario were notified, but were not represented.

BRITTON, J.—The company were incorporated by 50 & 51 Vict. ch. 120 (D.) The preamble to the Act is as follows: "Whereas it is desirable, for the general advantage of Canada, that a company should be incorporated for the purpose of utilizing the natural water supply of the Niagara and Welland rivers, with the object of promoting manufacturing industries and inducing the establishment of manufactures in Canada, and other businesses," etc. . . .

Is it necessary, considering the object of the Act, the subject matter dealt with, and how the corporate powers are to be exercised, that there should be the express declaration by the Parliament of Canada that the works are for the general advantage of Canada? I do not think it is.

1. This Act authorizes the company to contract with any bridge company to carry wires for electric light or other purposes and to connect them with the wires of any company in the United States. That brings the work under exception (a) of cl. 10 of sec. 92 of the B. N. A. Act. That section withdraws from Provincial legislative power any local work or undertaking extending beyond the limits of the Province.

2. This Act deals with navigable rivers. The works, as stated in the Act, may interfere with the navigation of the Welland river. Navigation is specially reserved by sec. 91 of the B. N. A. Act for Dominion legislation.