

Having personally viewed the premises and heard the witnesses as to the damages, and making allowances for damages done by flooding before the plaintiff acquired title, and for damage occasioned by flooding within the prescriptive rights of the defendants, and by flooding by the defendants and others in exercise of their rights under R.S.O. 1897 ch. 142, in respect to which the plaintiff is not entitled to damages, I find that he is entitled to recover from the defendants the sum of \$65 in full of his damages up to and including the 7th July, 1911, for which sum and his costs throughout, on the High Court scale, judgment will be entered in his favour.

BRITTON, J.

AUGUST 11TH, 1911.

IMPERIAL PAPER MILLS OF CANADA LIMITED v.
QUEBEC BANK.

Banks and Banking—Advances by Bank to Milling Company—Pledge of Timber—Written Promise to Give Security—Validity—Bank Act, sec. 90—Winding-up of Company—Forum for Determination of Issues—Leave to Defend Action and Assert Claim to Timber—Receiver—Liquidator—Identification of Property—Description—Absence of Fraud—Lien of Bank—Payment of Government Dues—Injunction—Damages—Costs.

The plaintiffs' claim, as indorsed on the writ of summons, was for an injunction restraining the defendants from taking possession of or interfering with the logs of the plaintiff company in the McCarthy creek, the Sturgeon river, Lefrois lake, or in any other portion of the plaintiff company's concession, which logs were claimed by the plaintiff Clarkson as receiver of the plaintiff company (appointed in an action of Diehl v. Carritt).

In the plaintiffs' statement of claim they alleged an agreement and intention on the part of the defendants to take the logs down the Sturgeon river and over the Sturgeon falls, for the purpose of preventing them being purchased for or used at the plaintiffs' mill. The plaintiffs also attacked the securities held by the defendant bank and asked an adjudication in respect of them.

An interim injunction was granted, upon the plaintiffs' application; and at the trial they sought: (1) to have the injunc-