

drive and sort logs passing through its booms and to charge tolls for the services so rendered. Thus authorized, the boom company in or about the year 1869 constructed a portion of its works. On the 27th February, 1905, amending articles were issued declaring that the general nature of the boom company's business should be "the improvement of the Rainy River from its mouth at the Lake of the Woods to the falls of said river at International Falls . . . by cleaning, deepening . . . the channel . . . and so keeping and maintaining said river and the said improvements and works in repair as the render driving logs and floating timber thereon reasonably practicable and certain, and to drive, tow, boom, assort, hold, distribute and otherwise handle logs . . . in said river . . . and to collect tolls and charges for such services," etc.

On the 6th April, 1905, the War Department of the Government of the United States granted a permit to the boom company to extend and thereupon it did extend its works easterly.

The general nature of these works may be described as follows: Piles were driven along the stream at places sometimes in the middle and at others near to but not in the middle of the stream, and booms connected by chains were secured in a continuous line along these piles up the stream, except where at one place towards the easterly end an opening was left for the purpose of enabling vessels to pass through. To the east of this opening was erected a sheer boom which ran in a north-easterly diagonal direction across and up the stream to the Canadian shore. At the lower or westerly end of the boom were cross booms, sorting gaps and pockets whereby logs could be held and sorted.

The lumber company is a corporation incorporated under the laws of the province of Ontario and carries on its lumbering business in that province. Its saw-mills are situate in Ontario on the northerly shore of the Rainy River, some distance below the westerly end of the boom company's works, and the logs in question were cut on Canadian limits for the purpose of being manufactured into lumber at the lumber company's mills in the said province of Ontario. In connection with its mills, the lumber company had also erected a boom some two and a half miles in length along the Rainy River for the purpose of catching