

officers to distrain and impound the sheep, even if they were "running at large" contrary to the by-law; they were merely "other" persons, who under the by-law were empowered to take and deliver to the pound-keeper.

Per WILSON, C. J., unless some facts existed which might give rise to an honest belief that the sheep were at large, and unless they honestly believed that such a state of things existed, they were not entitled to notice of action, but such a state of facts did not exist under the evidence in this case. *Ibbotson v. Henry*, 625.

RIVERS AND STREAMS.

Streams—Improvements on for floating timber—Right to the use of.

—The plaintiff had erected dams, slides, and other improvements for facilitating the passage of saw logs and timber down a stream, floatable in a state of nature. Some of these slides were situated in the bed of the stream, others were built entirely on the plaintiff's land on one side of the stream, the water of which was dammed back so as to flow in part through the artificial channel thus constructed. The defendants in driving their logs and timber down the stream used all the slides and improvements. In an action for tolls for such user—

Held, following *Caldwell v. McLaren*, L. R. 9 App. Cas. 352, that as to all slides and improvements constructed in the bed of the stream plaintiff could not recover; but *Held*, also, as to all such improvements outside the channel, and upon plaintiff's land, that a recovery by the plaintiff was proper.

Held, also, that the absence of aprons of the proper statutable dimensions upon plaintiff's dams across the river afforded defendants no ground for claiming the right to use without compensation plaintiff's improvements not in the bed of the stream.

Boale v. Dickson, 13 C. P. 337, remarked upon. *Mackey v. Sherman*, 28.

ROAD ALLOWANCE.

Roads opened up on lands adjacent to road allowance—Road allowance taken by owners of such lands—Right to open up same—Compensation—44 Vic. c. 241, secs. 15, 16.—See HIGHWAYS, 1.

SALE OF GOODS.

1. *Sale of goods—Property passing—Landlord and owner—Trade fixtures.*—In July, 1882, the plaintiff sold to U. & Co. certain water-wheels under a written agreement whereby, until the whole purchase money was paid, the title and property should not pass but merely the right of possession, which should be forfeited on default of payment, or on the goods being seized under distress or execution, &c., the sale being conditional and punctual payment being essential to it. The wheels were received by U. & Co., and were placed, but so as to be capable of being taken out by the removal of a few boards and expenditure of a few dollars, in a flume attached to a mill erected by them on land, with water privileges, occupied under a written agreement for a lease made with H., which provided that the lease should contain provisions for forfeiture in the event