

3. Nor were the defendants assisted by secs. 15 and 16 of R. S. O. ch. 140, for, even if the dam was erected before the plaintiff's purchase of his property from the Crown, there was nothing to shew that the price he paid was reduced in consequence.

4. But sec. 1 of R. S. O. ch. 142 places the public advantage of allowing lumbermen to use rivers and streams as highways for carrying their logs to a market, above the private damage and inconvenience which may necessarily be caused to individual riparian proprietors by their doing so, and the original defendants were not liable for any damage sustained by the plaintiff by reason of their having, during any spring, autumn, or summer freshet, caused damage to the plaintiff by using or repairing or maintaining any dam necessary to facilitate the transmission of their timber down the stream.

5. The rights given to persons desiring to float their own timber down a stream should not, however, be extended to companies incorporated for the purpose of making a profit by improving streams and charging tolls to lumbermen desiring to use them; and this view is strengthened by sec. 15 of R. S. O. ch. 194.

The action was dismissed as against the original defendants; and judgment was given for the plaintiff against the added defendants for \$142, but without costs, the defendants having paid that amount into Court.

MEREDITH, C.J.

JULY 14TH, 1902.

WEEKLY COURT.

MORSE v. MORSE.

Trust—Right of Beneficiary to Enforce in Her Own Name—Conveyance.

Motion by plaintiff for judgment in default of defence.

E. F. Gunther, for plaintiff.

No one for defendants.

MEREDITH, C.J., held that *Edmison v. Couch*, 26 A. R. 537, supports the contention that the conveyance mentioned in the statement of claim created an irrevocable trust for plaintiff as to the provision which is made by it for her benefit, enforceable by her in her own name. Judgment so declaring and for the realization of the charge by sale of the lands in question, with costs. No personal judgment for payment, no claim therefor being made. Usual reference to Master in Ordinary, if plaintiff desires a reference.