

ages, and it was incumbent on plaintiffs to avail themselves of all reasonable means for the attainment of that end. In order to succeed on this branch of their claim, they must shew that the damages which accrued after that time were due to the acts of defendants. But, in my view of the circumstances, they have failed in this respect.

The appeal and cross-appeal should be dismissed with costs.

OSLER, J.A.—I agree in affirming the judgment . . . for the reasons given by the Chancellor.

GARROW and MACLAREN, JJ.A., concurred.

MACLENNAN, J.A., dissented as to defendants' appeal holding (for reasons given in writing) that it should be allowed with costs because plaintiffs were not entitled to substantial damages.

MARCH 17TH, 1905.

C. A.

CANADIAN PACIFIC R. W. CO. v. RAT PORTAGE
LUMBER CO.

*Execution—Seizure of Manufactured Product of Timber—
Permit to Execution Debtor to Cut and Remove from
Crown Lands—Partnership—Purchasers — Claimants—
Interpleader—Interest of Partner.*

Appeal by defendants from judgment of FALCONBRIDGE, C.J., in favour of plaintiffs in interpleader issues arising out of the seizure by the sheriff of Rainy River of certain railway ties, boom timber, and logs, under a writ of execution in his hands upon a judgment recovered by the Rat Portage Lumber Co. against E. F. Kendall.

The writ was placed in the sheriff's hands on 15th October, 1902, and the seizure was made on 16th and 23rd June, 1903.

Claims were made on behalf of the Canadian Pacific R. W. Co., of a firm of Kendall & Robinson, composed of E. F. Kendall and Thomas Robinson, and of the Bank of Ottawa, and, upon interpleader proceedings instituted by the sheriff, issues were directed. The first related to the ownership of the ties, and, as settled, was to the effect that the railway company and Kendall & Robinson affirmed and the Rat Portage Lumber Co. denied that the ties in question were at the time of the seizure the property of the claimants, or of one of them, as against the contestants, and if the property of Kendall & Robinson subject to liens and assignments held by the Bank of Ottawa. The other issue related to the ownership of the boom timber and logs, and, as settled, was to the effect that Kendall & Robinson affirmed and the Rat Portage