proof being, of course, upon them—anything like any one of such rights.

The first of the grounds is based upon the fact that the land of the defendants was purchased from the then owner of it, who was then also owner of the plaintiff's land, on the condition that the purchaser should build a saw-mill and a grist-mill upon it within a specified time. Some years afterward, the saw-mill having been erected and some steps taken towards the erection of the grist-mill, the vendors were satisfied in respect of these conditions and granted the land free from them; as well might be, the grantor having no interest, except the public welfare, in the erection of the mill; and so, so much having been done, the rest was quite reasonably left to the law of demand and supply. At all events, the Crown Lands Department was quite satisfied; and the grant was deliberately and intentionally made free from the conditions imposed under the contract of sale, conditions which, at the time of making the contract, it was intended, should be fulfilled before the grant was made.

In these circumstances, what possible right could the grantees have beyond those expressed in the grant and those which would go with the sale of any land having a mill-site upon it? And assuredly it neither carried the right to commit nor to continue, through all time, a great and a far-reaching nuisance; and one which might perhaps be a crime at common law—for mill-work travels far and is an enemy of navigation. It appears to me that it would be entirely wrong to imply any grant in this case; and that the doctrine of estoppel would be basely used if applied in the defendants' aid. But, assuming that in either way the grantor could not object to any injury affecting the lands now owned by the plaintiff arising from a reasonable use of the mill-stream for the purposes of saw-milling, that would give no everlasting right to continue early-day loose methods, even if early-day necessities made them then excusable; and it is made quite plain upon the evidence that present-day reasonable precautions would prevent all that the plaintiff complains of; and indeed are all that he asks for. . . .

In view of the defendants' testimony alone, it is quite impossible to give weight to the second ground relied on by them. In the year 1896, the defendants paid the plaintiff $100 for the injury caused by his land by the nuisance complained of; for a number of years afterwards they paid him so much a year for removing the mill-waste—also called drift-wood by parties and witnesses—which was the main cause of his complaint; and since that time they have sent their own men to do that work. . . .