Div'l Court.] [Dec. 26, 1894.

SHANNON SHINGLE MFG. CO. *v.* CITY OF TORONTO.

Equitable assignment—Chose in action—Verbal arrangement—Notice—Priorities.

A contractor who had certain contracts with a city corporation in 1888, by writing, assigned to one who supplied him with funds to perform the work under the contracts all moneys due or coming due thereunder, and lodged the writing with the corporation. The assignor at this time expected to enter into other contracts with the corporation, and subsequently did so; and at this time and prior to it a standing arrangement, not evidenced by any writing, existed between him and the assignee by which the latter was to supply money and material to the former as security, for which the former was to give the latter an order for all moneys coming to him from the corporation upon all his contracts, and this arrangement was to continue until he saw fit to stop it. The corporation had no notice of this arrangement, but they treated the writing as applicable to future contracts and made payments to the assignee with the assent of the assignor, until they received notice of other assigments of portions of the moneys.

Held, that, although the written assignment applied only to the contracts in force at its date, the verbal arrangement was a good equitable assignment of all moneys which became due under future contracts; but, in the absence of notice to the corporation of the verbal arrangement, the other assignees, who gave the corporation notice, were entitled to priority as to moneys due under future contracts at the time they gave such notice.

Dearle v. *Hall*, 3 Russ. 1, 48, followed.

Moss, Q.C., for Robert Carroll.

Coatsworth for T. Tomlinson & Son.

W. H. Garvey for the plaintiffs.

W. R. Smyth for J. J. Booth.

ROSE, J.] [Oct. 5, 15, 1894.

CULLERTON *v.* MILLER.

Water and watercourses—Navigable waters—Ice—Right of free passage over—Action for declaration of right—Damages—Loss of business.

The defendant, being the owner of certain water lots upon a lake front, subject to a reservation in favour of the Crown of free passage over all navigable waters thereon, refused to allow the plaintiff to haul ice out from the lake over such lots, when frozen, to the wharf from which the plaintiff desired to ship the ice for the purposes of his business, unless the plaintiff paid toll, which he refused to do.

Held, that the plaintiff had the right without payment to cross the defendant's lot, whether the water upon it was fluid or frozen; and, having the cause of complaint, and a right of action for his personal loss, he was entitled to come to the court for a declaration of right.

Gooderham v. *City of Toronto*, 21 O.R. 120, 19 A.R. 64, and *City of Toronto* v. *Lorsch*, 24 O.R. 229, followed.