

**WAIVER.**

See **BILLS OF EXCHANGE AND PROMISSORY NOTES**, 1.

**WAREHOUSE.**

See **RAILWAYS**, 4.

**WAREHOUSE RECEIPTS.**

See **BANKS AND BANKING**.

**WATERS AND WATERCOURSES**

1. *Definition of watercourse—Surface-water.*—A watercourse entitled to the protection of the law is constituted if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and defined channel. It is not essential that the supply of water should be continuous or from a perennial living source. It is enough if the flow arises periodically from natural causes and reaches a plainly-defined channel of a permanent character. *Beer v. Stroud*, 10.

2. *Easement—Prescriptive rights—Dominant and servient tenements—Lease of servient tenement—Unity of possession—Suspension of easement—Joint owners of mill dam—Injunction—Damages.*—One of two joint owners of a mill dam, each having a mill on the opposite sides of the river by which the dam was formed, was entitled to a prescriptive right to the supply of water as furnished by the dam all the way across the river and to dam back the water on to the plaintiff's land, but the other owner was not.

In an action to restrain both owners from backing the water to the detriment of the plaintiff:—

*Held*, that the dam as a piece of property was an entire thing and that the plaintiff was not entitled to an injunction restraining the use of the water, his remedy being in damages against the owner not entitled to the easement.

A right to an easement previously enjoyed cannot be acquired by the lapse of time during which the owner of the dominant tenement has a lease of the land over which the right would extend. During such unity of possession the running of the Statute of Limitations is suspended. *Slothart v. Hilliard et al.*, 542.

3. *"Ditches and Watercourses Act, 1883"—Work not in accordance with award—Remedy under sec. 13—Costs.*—Where an award has been made under the "Ditches and Watercourses" Act, 1883, the only remedy for the non-completion of the work in accordance with the award is that provided by sec. 13 of the Act.

*Murray v. Dawson*, 17 C. P. 588, followed; and *O'Byrne v. Campbell*, 15 O. R. 339, distinguished.

No other or greater costs were allowed to the defendants than if they had successfully demurred instead of defending and going down to trial. *Hepburn v. Township of Orford et al.*, 585.

**WAY.**

*Easement—Severance of tenement by devise—Reasonable enjoyment of parts devised—Necessary rights of way.*—Upon the severance of a tenement by devise into separate parts, not only do rights of way of strict necessity pass, but also rights of way necessary for the reasonable enjoyment of the parts devised, and