

Sup. Ct.]

NOTES OF CANADIAN CASES.

[Sup. Ct.]

Quebec.]

PION V. NORTH SHORE RAILWAY CO.

*Navigable river—Access to, by riparian owner—Right of—Railway company responsible for obstruction—Damages—Remedy by action at law—When—*43 Vict. (P.Q.) ch. 43, sec. 7, ss. 3 and 5.

Held, reversing the judgment of the Court of Queen's Bench, Quebec, 9 Leg. News, 118, TASCHEREAU, J., dissenting, that a riparian owner is entitled to damages against a railway company, although no land is taken from him, for the obstruction and uninterrupted access between his property and the navigable waters of a river, and the injury and diminution in value thereby occasioned to the property.

2. That the railway company in the present case not having complied with the provisions of 43 and 44 Vict. (P.Q.) ch. 43, sec. 7, ss. 3 and 5, the appellant's remedy by action at law was admissible.

Appeal allowed with costs.

Langelier, Q.C., for appellants.

Irvine, Q.C., and Duhamel, Q.C., for respondents.

Quebec.]

BRADY V. STEWART.

*Litigious rights—Sale of—*Arts. 1582, 83 C. C.

B. became holder of forty shares upon transfers from D. et al. in the capital stock of the St. Gabriel Mutual Building Society. At the time of the transfers the shares in question had been declared forfeited for non-payment of dues. Subsequently, by a judgment of a court rendered in a suit of one C., whose shares had also been confiscated for similar reasons, the shares were declared to be valid, and to have been illegally forfeited. Thereupon B., by petition for a writ of mandamus, asked that he be recognized as a member of the society, and be paid the amount of dividends already declared in favour of and paid to other shareholders. B.'s action was met, amongst other pleas, by one setting forth that B. had acquired, under the transfers in question, certain litigious rights, and that by law he was only entitled to recover from the respondents the amount he had actually paid

for the same, together with legal interest thereon, and his cost of transfers.

Held, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 272, FOURNIER and HENRY, JJ., dissenting, that at the time of the purchase of said shares, B. was a buyer of litigious rights, and under Art. 1583, C. C., could only recover the price paid, with interest thereon.

Appeal dismissed with costs.

Doherty, Q.C., for appellant.

Curran, Q.C., for respondent.

Quebec.]

**THE MAGOG TEXTILE AND PRINTING CO.
V. DOBELL.**

*Joint stock company—*31 Vict. ch. 25 (P.Q.)—*Action for calls—Subscriber before incorporation—Allotment—Non-liability.*

D. signed a subscription list undertaking to take shares in the capital stock of a company to be incorporated by letters patent under 31 Vict. ch. 25 (P. Q.), but his name did not appear in the notice applying for letters patent, nor as one of the original corporators in the letters patent incorporating the company. The directors never allotted shares to D., as required by 31 Vict. ch. 25, sec. 25, and he never subsequently acknowledged any liability to the company.

In an action brought by the company against D. for calls due on the company's stock,

Held, affirming the judgment of the court below, that D. could not be held liable for calls on stock.

Appeal dismissed with costs.

Bosse, Q.C., and Beique, for appellants.

Irvine, Q.C., and Stuart, for respondents.

THE CENTRAL VERMONT RAILWAY COMPANY V. TOWN OF ST. JOHNS.

*Railway bridge and railway track—Assessment of, illegal—*40 Vict. ch. 29, secs. 326 & 327—*Injunction—Proper remedy—Extension of town limits to middle of navigable river—Intra vires of local legislature—*43 & 44 Vict. ch. 62, P. Q.

Held, reversing the judgment of the Court of Queen's Bench, Montreal, FOURNIER and TASCHEREAU, JJ., dissenting, (1) that the portion