

class of buildings which he desired to put up, and was worse than useless to him. The evidence shewed the wall did not depreciate the value of the land.

Held, that this being so, and under all the circumstances of this case, specific performance must be decreed, though the matter complained of might have been proper for compensation, had such been sought under the condition of sale relating thereto. *Imperial Bank of Canada v. Metcalfe*, 467.

VERDICT.

See INSURANCE, 1.

WAIVER.

See LANDLORD AND TENANT, 1, 2.

See also INSURANCE, 1.

WARRANT.

Regularity of—*See* CONVICTION.

WASTE.

See LANDLORD AND TENANT, 1.

WATERS AND WATER COURSES.

1. *Municipal corporation*—*Negligence*—*Action*—*Compensation*—*Mortgages, adding as a party*.—The approaches to a bridge built over a river were supported on trestle work, the water flowing through the trestle

work and spreading over the low land until it fell into the river. The municipality subsequently filled in the trestle work and made a solid embankment there whereby the water was penned back, and was sent down in a greater body and with greater force in the regular channel, by reason whereof a great part of the bank of the river upon which the plaintiff's factory was erected, was washed away, and was being so washed away from year to year.

Held, that as the work was done by defendants in such a way as to occasion damage to the plaintiff, whereas it could and should have been done without such effect, this was a matter in which the plaintiff must prosecute his rights by action, and was not the subject of compensation under the arbitration clauses of the Municipal Act.

The land in respect of which the claim was made was mortgaged.

Held, that the mortgagee was not a necessary party, the proceeding not being for compensation for land taken, but as a defence of and protection to property. As, however, his security might be prejudiced or diminished by the washing away of the land, and he might be able to assert some right to the compensation, there could be no objection to his being joined; but as the compensation was only some \$50, the Court would not require him to be made a party. *In re Nickle and the Corporation of the Town of Walkerton*, 433.

2. *Riparian proprietor*—*Reservation in patent of rights of navigation*—*Ownership of land covered with water*—*"Navigable waters"*—*Nuisance*—*Damages*—*Injunction*—43 *Vic. ch. 24, (O.)*.—The judgment of PROUDFOOT, J., reported *ante* 10 O. R. p. 351, reversed.

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