

as to cause any damage or injury to the plaintiffs within Ontario, and so this defendant disputes the jurisdiction of this Court to entertain this action against it. The two defendants together, and for a common purpose, constructed the dam in question. The Ontario company did the work necessary on the Canadian side of the boundary line, and the Minnesota company did the work necessary on the United States side of such boundary line. The dam when and as completed is a continuous connected work extending completely across Rainy River from Fort Frances on the Canadian side to International Falls on the United States side.

The dam was constructed for the purpose of developing the water power at the point mentioned on Rainy River, and not for the purpose of storing water, or otherwise obstructing the natural flow of the waters of that river, but if the dam does so obstruct the natural flow of the waters as to cause damage to persons lawfully and reasonably using the river for the purposes of navigation, then the defendants are liable. If the dam, as a whole, so interferes with the flow of water as to cause damage to a person using the Canadian side of that river, the United States company is equally responsible with the Ontario company, therefore this Court has jurisdiction to entertain this action. The questions are entirely those of fact and were so presented at the trial.

The plaintiffs' steamers on the line between Kenora and Fort Frances, were the "Kenora" and the "Agwinde," the "Kenora" between the town of Kenora and Rainy River, and the "Agwinde" between Rainy River and Fort Frances. The latter boat on the trip up was to leave Rainy River at 7.10 a.m. and to arrive at Fort Frances at 6 p.m., calling at five small intermediate ports, and calling at any other place on the Canadian side upon being signalled. The evidence does not establish that there has been any such interference by the defendant with the flow of water as to cause damage to the plaintiff company in the running of the steamer "Kenora," or in the navigation of the Lake of the Woods. The plaintiffs' claim, if any, is only as to interference with the running of the "Agwinde." The defendants' contention is that the plaintiffs were engaged in a losing business, that Rainy River was not during the early part of the season of 1911, from a point below the Sault rapids to Fort Frances, easily, if at all, navigable for boats of the size of the "Agwinde," and that plaintiffs knowing this, sought to put the