

day at the hour, and shall be conducted in the manner already provided, and the results of the examination for Certificate of Fitness are to be declared at 2 p.m. on Wednesday, the results of the Examination for Call are to be declared at 2 p.m. on Thursday. The orals for both Call and Certificate of Fitness are to be held at 2.30 p.m. on Thursday, and results are to be declared immediately after, and on Friday at 9.30 a.m., the Honor Examinations in connection with Call are to be held. The reports of the examiners upon the Examinations for Call and Certificate of Fitness, and for Honors in connection with Call, are to be handed in to the Secretary not later than 3 p.m. on the Saturday before Term.

11. A rota of elected Benchers shall be prepared by the Secretary, who is to notify two Benchers whose turn it is according to the rota to attend, or to provide a substitute to attend on one of the oral examinations, so that at least one Bencher may be present at each of the oral examinations.

12. All parts of existing rules inconsistent with this rule, are repealed in so far as they are inconsistent therewith.

The rule was read a third time, and was passed.

The report of the Committee on the subject of unlicensed conveyancers, agents for powers of sale and Division Court suits, the consideration of which was adjourned until to-day, was brought up.

Mr. Moss, Chairman of the Committee, reported a correspondence with the Attorney-General.

Mr. Murray moved that the report be amended by inserting the words "the second day of next Term," in lieu of the words "26th December inst.," which was carried.

Mr. Moss moved the adoption of the report as amended.

The letter from A. G. McMillan, from San Francisco, as to a certificate of standing, was read, also the draft certificate.

Ordered, that the seal be affixed to the certificate as amended.

Convocation adjourned.

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

SUPREME COURT OF CANADA.

McLAREN v. CALDWELL.

R. S. O. cap. 115, sect. 1—Construction of non-floatable streams—Private property.

Appeal from the Court of Appeal of Ontario, whereby a decree of the Court of Chancery in

favor of the plaintiff, (appellant), was reversed. By the decree of the Court of Chancery the defendants, (respondents), were restrained from interfering with the plaintiff's user of certain streams where they pass through the lands of the plaintiff, and which portions of said streams were declared to be, when in a state of nature, not navigable or floatable for saw logs, or other timber, rafts and crafts.

On appeal to the Supreme Court of Canada on the question at issue between the parties, viz.:—Had the appellant the legal right to prevent, as he sought by his bill to prevent, the respondents driving their logs through his lands, and in doing so to utilize the improvements owned by him on and along the streams in question, or are those streams part of the public highway, and therefore open to the free use of the respondents in common with the appellant and the public generally?

Held, that the learned Vice-Chancellor who tried the case having determined that upon the evidence adduced before him, the streams, at the *locus in quo*, when in a state of nature, were not floatable without the aid of artificial improvements of one kind or another, and such finding being supported by the evidence in the case, the appellant had at common law the exclusive right to use his property as he pleased, and to prevent respondents from using as a highway the streams in question where they flowed through appellant's private property.

2nd. Held also, (approving *Boale v. Dickson*, 13 U. C. C. P. 337), that although, by 12 Vict. c. 87, sect. 5, it is enacted "that it shall be lawful for all persons to float saw logs and other timber, rafts and crafts down all streams in Upper Canada during the spring, summer and autumn freshets, etc.," such legislation (re-enacted by ch. 115, R. S. O. sect. 1,) extends only to streams as in their natural state would, without improvements during freshets, permit saw logs, timber, etc., to be floated down them, and that the portions of the streams in question, where they pass through appellant's land, were not within said ch. 115, R. S. O. sec. 1.

Decree restored.

Cameron, Q.C., Dalton McCarthy, Q.C., and Creelman, for appellant.

J. Bethune, Q.C., and Church, Q.C., for respondents.