

The means of getting from place to place in that locality is mainly by water. Defendants' logs prevented plaintiff from having ready access to the water, the booms interfered with his navigating the river with his launches and boats, so much so that at times his only means of getting to the post-office on the opposite bank of the river, and reaching the place where he obtained his supplies, was by walking over the open and unguarded trestle bridge of the railway.

His chief causes of complaint are: (1) that defendants' operations in the river were so conducted as to prevent his using it as he had a right to use it, and (2) that defendants committed a trespass upon his property by erecting the jack-ladder wholly or in part thereon, and caused him damage by destroying and removing trees and by flooding a portion of his land.

Dealing with the first of these objections, defendants have placed much reliance upon their contention that plaintiff by reason of the one chain reserve along the shore of the river is not a riparian proprietor, and so is not entitled to the privileges of such an owner. This contention is based upon the assumption that the reserve is to be measured from high water mark, and that, therefore, at times of low water, land would intervene between the shore side of the reserve and the edge of the water. Even were it conceded that the measurement of the chain reserve is to be made from high water mark (a position which on the authorities is untenable), it cannot be admitted, as contended by defendants, that the line of those waters in the summer of 1912, when defendants for their own purposes raised the water level several feet above normal, can be considered as the high water line. *County of York v. Rolls*, 27 App. Reports 72, Angell on Watercourses, 7th ed., sec. 53, p. 50, note 1.

The further contention that the chain reserve itself cuts off plaintiff's right of access to the water cannot prevail. A case much similar in this respect to the present is the *Metro-politan Board of Works v. McCarthy*, 7 H. L. C. 243, reference to which will throw some light upon the effect of the conditions existing here.

Another element to be considered in solving the question of defendants' liability is whether they were within their rights in using the river as they did use it. They maintain that they have not exceeded the statutory rights of those engaged in a business such as they carry on. The Saw Logs