

which will be restrained by the court and it is not necessary as a condition of obtaining relief that the proprietor complaining should shew that the withdrawal in question results in any immediate injury.

The fact that the one proprietor has assented during a period of from ten to fifteen years to the withdrawal of water by the other and has suffered a pipe line for that purpose to be laid across his land does not estop him from revoking the permission given and standing upon his legal rights although the court in such case will not grant an injunction unless it appears that such course is unavoidable. In the absence of formal notice of termination of the privilege given the bringing of the action will have that effect.

The right of one proprietor to take minerals from the land of another does not abridge in any way the right of the owner of the land to make use of the surface in any way that he sees fit and damages cannot be claimed or awarded because the manner in which the surface is used makes it more difficult or expensive to obtain access to the minerals.

The owner of a quarry will not be enjoined from carrying on blasting operations unless it is shewn that such operations are systematically carried on in a negligent, reckless and dangerous manner.

*Rowlings*, for plaintiff. *Crowe*, K.C., for defendant.

## Province of Manitoba.

### KING'S BENCH.

Prendergast, J.]

GRAVES v. TENTLER.

[Jan. 24.

*Jurisdiction—Awards—Enforcing award against non-resident of province—Service of notice of motion out of jurisdiction—King's Bench Act, Rules 201, 773—Finality of award—Reservation of matter for subsequent adjudication by arbitrator.*

The respondent, who was not a resident of the province, joined with the applicant in referring their disputes to an arbitrator residing in Winnipeg, agreed to abide by his award and afterwards submitted his case to the arbitrator. Having refused to obey the award, the applicant served him out of the