The evidence showed that the employer was daily in the workshop and saw him cleaning the machine under the same circumstances in which he was hurt, and did not forbid him. The jury found that there was no contributory negligence, and awarded a verdict of $1400. It appeared that a cheap and simple guard would have prevented the accident.

Held, (1) that as the place where the plaintiff worked was dangerous, and called for a guard under the provisions of the Factory Act, the failure to furnish such a guard was *per se* evidence of negligence on the part of the defendants.

(2) That the employer was also chargeable with personal negligence in seeing this lad, a minor, working with improper appliances in a dangerous place and not making proper provision for his safety by supplying him with waste, or without having the machinery stopped while the cleaning was going on.

Judgment in the plaintiff's favour for the $1400 affirmed with costs.

D. McCarthy, Q.C., for the defendants.

Staunton for the plaintiff.

SCANLON *v.* SCANLON.

Will—Construction—Devise of lot facing on two streets by description of house facing on one.

In 1867, M.S. purchased a strip of land in Toronto with a frontage of twenty-six feet on A. street, by a depth of two hundred feet to a lane twenty feet wide. In 1882 the city converted this lane into a street. At the time of the purchase by M.S. there was on the land a house facing A. street known as No. 32, and also a house facing P. street, known, after it became a street, as No. 21. They were always occupied as separate and distinct tenements. Each house had a fence in the rear, and between the fence was some land which had been, in a way, used in common by the occupants of the two houses. In 1886, M.S., by his will, devised to J.S. "all that real estate now owned by me being numbered 32 on the north side of A. street for and during his life," and afterwards over, and then made a general residency devise of the rest of his land.

Held, that the specific devise was confined to No. 32 A. street and the lands appertaining to it, to the exclusion of the house on P. street and the lands appertaining to it.

DuVernet for the plaintiff.

Armour, Q.C., for the defendant.

LANGSTAFF *v.* MCRAE.

Negligence—Overflowing of land—Bursting of timber boom—Right to erect booms in rivers.

Action for damage caused by overflowage of the plaintiff's land.

It appeared that the defendants had a quantity of timber boomed in the S. river, and the boom broke by reason of the heavy floods; and to prevent the logs floating down the river into the lake at the mouth, the defendants constructed another boom lower down near to a certain bridge. But so great was the force of the water and the quantity of logs and débris brought down by it, that this boom also broke and the logs became massed against the bridge.

The jury found that the injury of the plaintiff was caused by excess of rain and from the jam at the bridge, by which the water was raised. They did not find negligence on the part of the defendants, but said they were guilty of a wrongful act in throwing a boom across the river.

Held, that the defendants were entitled to judgment.

Per BOYD, C.: According to English law, a man may lawfully adopt precautions to defend his property against what may be described as the extraordinary casualty of a great flood; and this is not actionable though injury result to his neighbour from this "reasonable selfishness." And, again, this use of a boom being lawful by statute, R.S.O., 1887, c. 121, s. 5, and no negligence in its construction being pretended, it was impossible to say that what is thus expressly legalized can be made the ground of action of tort.

J. S. Fraser for the defendants.

Hoyles, Q.C., for the plaintiff.

FORWOOD *v.* THE CITY OF TORONTO.

Negligence—Street railway—Driving over man in daylight—Neglecting to stop a car—Contributory negligence.

The plaintiff having hailed a westward bound car, crossed over from the south side of King