
REPORTS AND NOTES OF CASES.

Dominion of Canada.

UPREME COURT.

Ont.] C. BECK MANUFACTURING CO. v. VALIN. [Oct. 6.]

Mandamus—Lumber driving—Order to fix tolls—Past user of stream—Appeal—R.S.O. (1897) c. 142, s. 13.

By R.S.O. (1897) c. 142, s. 13, the owner of improvements in a river or stream used for floating down logs may obtain from a district judge an order fixing the tolls to be paid by other parties using such improvements. On application for a writ of mandamus to compel the judge to make such an order,

Held, affirming the judgment of the Court of Appeal (16 O.L.R. 21) DAVIES, J., dubitante, and IDINGTON, J., expressing no opinion, that such an order had effect only in case of logs floated down the river or stream after it was made.

Held, per IDINGTON, J., as s. 15 gives the applicant for the order an appeal from the judge's refusal to make it mandamus will not lie.

Held, per DUFF, J.—The mandamus could issue if the judge had jurisdiction to make the order though he refused to do so in the belief that a prior decision of a Divisional Court was res judicata as to his power.

Appeal dismissed with costs.

Bicknell, K.C., for appellants. Shepley, K.C., and A. G. F. Lawrence, for respondents.

N.B.] ABBOTT v. ST. JOHN. [Oct. 6.]

Constitutional law—Municipal taxation—Official of Dominion Government—Taxation on income.

Sub-s. 2 of s. 92 B. N. A. Act 1867, giving s provincial legislature exclusive powers of legislation in respect to "direct taxation within the provinces, etc.," is not in conflict with sub-s. 8, of s. 91, which provides that Parliament shall have exclusive