ary signification, which is wide enough to include a passage which, while not wholly navigable for large vessels, may well have been navigable for small ones, especially those which might have effected a landing at the edge of the marsh where two of the fishing establishments are actually placed . . .

There is a consideration which should not be overlooked. The channels are spoken of in the patent as the American and British channels. These are colloquial designations indicating passages in the river rather than definite navigable channels owned wholly by each of the two nations. There are four channels in the river Detroit in this locality spoken of in the Ashburton Treaty of 1842, article VII., and the word "channel" between the islands in the river is therein used interchangeably with the word "passage," and all these four channels and those near the junction of the St. Clair river and lake are declared to be equally free and open, not only to ships and vessels, but to boats of both parties to the treaty.

There seems to be much force in the consideration given by Mr. Justice Sargant in Eastwood v. Ashton, [1913] 2 Ch. at p. 50, to the nature of the subject-matter which is being described, in determining whether a plan is to be treated as the vital and essential portion of the description. . . .

The Act 1 Geo. V. ch. 6 was passed on the 24th November, 1911. If the patent in question expressly grants the bed of the river Detroit, out to the navigable channel-bank, then of course the statute does not apply, and cannot limit it.

Two matters were argued in addition to the main question: one, whether the judgment for possession against the defendants other than Gauthier was proper, in view of the circumstances; and the other was directed to the judgment voiding Gauthier's license.

I do not think that the defendants (other than Gauthier) can be as summarily foreclosed as the respondent contends. There is a usual and proper way of terminating contracts where time has long ceased to be of the essence of the contract. These defendants claim to have paid $7,400; they are properly in possession under what they claim is a contract; and they are willing to complete it if they get the land out to the bank of the navigable channel. The main difference between the parties is as to what was bought and sold, but the plaintiff alleges that the defendants had no contract, but only an option to purchase.

In the view I have taken, the plaintiffs were not the owners of the land in dispute. It is a not unusual thing for the Court to refuse specific performance of a contract for the sale of