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#### LAW AND LOG DRIVING.

A case involving the legal rights of log drivers in streams was lately adjudicated at Saginaw, Mich., and excited considerable interest among lumbermen. Jeron P. Kroll sued Thomas Nester for \$5,000, on the charge that Mr. Nester ran his logs among the plaintiff's in the Tittabawassee river, making it necessary to remove them at a cost of the amount sought to be recovered by suit. The history of the case in brief is this: Kroll took a contract to drive about 80,000,000 feet of logs on tributaries of the Tittabawassee, above the mouth of the Sugar river, Nester also having about 60,000,000 feet in the Sugar. It was alleged by Kroll that Nester would run his logs down to the mouth of the stream, and whenever space was made in Kroll's drive, Nester would run his logs between so that Kroll was compelled to move Nester's logs in order to drive his own. Kroll claimed that it was worth \$5,000 to do this work, and to dam the tributaries in order to obtain a head of water to let the logs down. The judge in his charge to the jury said:

"The plaintiff claims that in the year of 1881 he entered into certain contracts with various log-owners who had logs upon the tributary streams above the Gerrish dam, known as the East Branch and the Middle Branch, and upon the main stream above the Gerrish dam, and below the mouth of the Sugar river; that by the terms of these contracts he was authorized by the owners of the logs to run and drive all their logs from the points where they were banked to within the limits of the Tittabawassee Boom Company—in other words, to drive them below the Gerrish dam. He claims that while engaged in this work the defendant had a large quantity of logs in the Sugar river, a branch of the Tittabawassee, coming into it about 15 miles above the Gerrish dam. The plaintiff claims that he ran those logs belonging to the defendant, from the mouth of the Sugar river down the Tittabawassee into the boom limits at the Gerrish dam; that after they passed from the Sugar river into the Tittabawassee they created an obstruction to its floating capacity and navigation, and that in order to remove the obstruction so as to get his own logs down he was compelled to expend a large amount of labor, and he asks compensation for the same in this suit. I think you can find from the testimony in this suit that the Tittabawassee river, up as far as the mouth of the Sugar, at least, was a public highway and a navigable stream."

The judge then proceeded, at some length, to recall the attention of the jury to the fact that although the plaintiff commenced the driving of the logs about April 19, the Gerrish dam was not put in until about May 15, and that all the logs that passed into the boom limits between those dates were brought down by the assistance of the natural flow of water, while the logs that were put through after May 15 were

driven by the aid of the Gerrish dam and other dams above it, and that they could not have been driven with the unaided natural flow of water. The jury were instructed that, under the statute, they might render a verdict in favor of the plaintiff for whatever logs were run down by the aid of the natural flow of water, if they found that any of the defendant's logs were so run by the plaintiff.

The court also charged the jury that the plaintiff could not recover for any work performed by him on Mr. Nester's logs after the Gerrish dam was put in; for all the work claimed to have been done after that was by means of artificial floods created by dams put in for the purpose; and the statute does not apply to work of that character. It was designed to provide a mode for recovering the cost of work done in removing obstructions from streams that are public highways. Before parties can recover for work done in running logs upon a stream navigated in an artificial way they must either make a contract with the owners of the logs, or they must form a company for the improvement of the stream, and obtain from the legislature a right to take tolls. Private persons have no right to dam or boom a navigable stream of water without authority from the state. It appears that the plaintiff has not proceeded under the law, but has merely acted as the agent of various log owners, who could not confer any power on Mr. Kroll to take a stream in its navigable state and increase its navigability by the use of dams and floods, and then charge others for the use of such improvement. The court therefore finally charged the jury that in making up their verdict they should omit any consideration of the work claimed to have been done by the plaintiff after the Gerrish dam was put in, where the Tittabawassee company receives logs put in above, as whatever work may have been done after that time was accomplished by the aid of artificial dams and floods, without corporate authority, or special permit from the state. The jury returned a verdict of \$800 for Mr. Kroll.—*Northwestern Lumberman.*

#### THE TORONTO TRADE.

According to the statements obtained from the principal lumber dealers of the city, the lumber trade this year has been very satisfactory in volume, and has been equal to that of last year if not ahead of it. The demand has been well up to the supply, so that the prices of last year have been maintained, and for some grades have shown an advance of 20 per cent. The bulk of the lumber handled by the Toronto dealers has of course been shipped to the United States via Oswego and Charlotte. The Americans are in fact appreciating Canadian lumber so much that an agitation has been started for a repeal of the duty. The Secretary of the Chicago Lumbermen's Exchange has

been for some time past in this country collecting facts and statistics that would strengthen the arguments for the free admission of Canadian lumber into the United States. The American lumber is getting scarce, and lumbermen on the other side contend that no harm would be done to American interests by Canadian competition. While the export trade from the United States has hardly been so good, but the country trade it is said has been satisfactory. It is estimated that taking all the Toronto firms, the total amount handled for all purposes during the year reached 140,000,000 feet. Of this quantity one firm handled not less than 60,000,000 of feet, while another important firm handled 20,000,000 feet.

Owing to the want of snow the output was not so great last season as was anticipated. Reports from the lumbering districts state that there is now too much snow, the depths in many parts being four feet, which puts serious difficulties in the way of handling.

With regard to next year's business the feeling is not to stock over what the mills had last year. It is believed that it would not be wise to increase the product, as prices are as high as they can be expected to go, and there is a fear in the trade of over-production. The cost of stocking last season was very high. Provisions were dear and lumbermen were scarce. It is too early in the winter to predict what amount will be hauled this season, but if there is favorable weather there will, no doubt, be a good supply.—*Toronto Mail, Tuesday 12th Dec.*

#### TO TRANSPLANT TREES IN WINTER.

E. W. Cornell, Clinton Corners, N. Y., gives to the *Dutchess Farmer* suggestions about transplanting trees in winter, a useful method when time is a matter of importance, or when the immediate securing of large specimens for the lawn is especially desired: "When properly done the holes should, of course, be dug when the ground is not frozen, and the soil placed in a compact heap and covered on the south side of the hillock with some coarse litter from the horse stable to keep a portion of the soil from freezing, which will give the planter access at any time during the winter. Sufficient loose soil to pack about the ball of earth will be taken up with the tree, which will be nearly sufficient of itself to fill the receptacle, and the dressing will be just where wanted to spread about the tree for winter protection and for immediate nourishment in the spring. Experience has taught me that it is highly needful to furnish some fertilizer for all transplanting trees at the time of removal. In balling out trees it is not advisable to wait until the ground is frozen hard, as is often done, which greatly increases the labor and expense,

"It is only necessary to dig a narrow trench about the tree, which may be quite near the

trunk; the soil being damp will be held by the many fibrous roots from falling into the trench, which should be deep enough for cutting down through the horizontal roots, which, with most trees, will require a depth of from 15 to 20 inches, laying bare the top roots. Having dug about all the trees in like manner, all you have to do is to wait until the ball of earth is frozen, when you have only to chop off the the main perpendicular root, and with the trunk for a lever, two can readily load upon a stoneboat or sleigh a tree, with ball of earth attached, as heavy as a team can haul. When arrived at the place of setting drive the boat or sleigh upon the heap of soil in such a manner that it will incline toward the pit, and in a moment you may slide the tree to its appointed place."

"Tramp some of the soil from under the dressing around the ball of earth; put the litter about it, and the work is done much better than it could be at any other season of the year, for the multitude of fibrous roots in the ball of earth preserve the roots from any check until the larger roots can throw out a colony from the points where they were cut off. There is no necessity for losing one tree in 100 by this method, while a large tree can be removed with as much safety as a small one, providing the ball of earth attached be correspondingly enlarged. This method is exceedingly favorable for the resetting of evergreen trees, which otherwise is attended with much danger of loss from the least drying of the roots. It is a work well adapted to the winter, as it can readily be discontinued at an inclement season, to be resumed at any favorable moment."

A QUEBEC despatch says:—Only fifteen car-loads of Messrs. Grant & Co.'s square timber are coming down by the North Shore Railway this winter. The balance will remain over until the spring. The timber has now to be piled on the wharf, as it cannot be sent by water to the coves, owing to ice on the river.

IN reference to the McLaren-Caldwell case the *Lumberman's Gazette*, of Bay City, Michigan says:—At this distance the premises of the *Mail* appear to be well taken, and proof against its assailants. Mr. McLaren is quite well-known here, and his victory, founded as it apparently is upon justice, will gratify Saginaw lumbermen.

THE *Belloville Intelligencer* says:—Lumbermen may be interested in knowing the precise quantities of the different woods wintering over here. There are as follows:—White pine (square), 6,532 feet; white pine (wancy), 3,354,943 feet; red pine, 2,363,624 feet; oak, 1,362,153 elm, 530,611 feet; ash, 212,422 feet; birch, 78,413 feet; pipe staves, 293; puncheon staves, 1,007; pine deals, 2,507,704; spruce deals, 1,012,920.