was not navigable at other times, if it became so in times of freshet the public right to pass at these times should be recognized.

If that is not the proper view to take of the enactment, but it was intended to declare these streams to be public highways, as my learned brother appeared to think, it would, I approhend, follow that wherever the natural obstructions were removed by the owner of the soil so as to make those portions of the stream not previously navigable passable for boats or timber, the owner of the soil would not be in a position to exclude the public from the use or enjoyment of the stream so improved. The illustration given by my brother Patterson, of a portion of a concession line which is declared by law to be a common and public highway being impassable by reason of some physical obstruction, would then be applicable. It is because I am unable to find in any of these statutes language declaring these streams to be of that character that I am unable to concur in the conclusion of the other members of the court. I quite agree with them in their view of the doctrine laid down in Boale v. Dickson. I think there is nothing to warrant the qualified construction placed upon s. 15 of 12 Vic., c. 87, by the learned judge who delivered the judge ment in that case, but I am unable to bring my self to the conclusion that the mere permission or the recognition of the right to float all stream during freshets make the entire stream publici jaris, although in point of fact many portions of it may be quite impassable, even in times of freshet, for the smallest description of timber or other articles of merchandise. The language of a statute which would by a particular construction have the effect of interfering with the enjoyment of private property, or give the right to others to pass over it without compensation, ought to be very plain to induce a court to place upon it such an interpretation. I have pointed out what I conceive to be its proper meaning and intention, and full effect is given to the words by adopting that construction. If that be the correct interpretation, then I apprehend it will be still necessary to ascertain whether at the particular point where the stream passes through the plaintiff's land it was floatable when in a state of nature during freshets. If not, then in my view it is not floatable within the meaning of the authorities, but is wholly and absolutely private property. To illustrate my meaning as to what I conceive would be the effect of the statute if the judgment of my collagues be correct, let us image a scretch of many miles above the place in question not only float. able, but navigable for larger vessels. A space than intervenes for say half a mile neither navigible nor floatable at any period of the year, followed by long stretch of navigable water to the mouth of the stream.

It is not necessary to the navigability of the stream that it should be navigable for its entire length. The public may use such parts of it as are navigable.

If, then, this intervening space had passed from the Crown into the hands of a private prometer, and he has at his own charges made was provious to the improvement his own in point of property, and non-navigable and non-floatable, to be passable for large vessels other by the deeping of the channel or the making of locks, can it be possible that under language similar to what is to be found in this statute the owners of steamboats and other large vessels could pass over such property of right; in other words, that a property which admittedly while it remained unimproved was strictly private property, unaffected by any public right whatever, lost that character and become publici juris, although made navigable entirely at his own and not at the public ex-cense, because in an Act of Parliament it is declared that all persons may during the spring, summer and autumn freshets float saw logs, etc. down all streams. I venture, with considerable diffidence and doubt in the correctness of my ewn opinion, in consequence of the different view taken by learned brothers, to think that such a result could never have been countemplated by the Legislature. Yet such must be the result in the case sugger, ed if the proper construction . I the Act gives the defendant the ... timber over these improvements of plaintiff as of right.

I repeat, then, that in my view of the statute it was intended to confer no new right, but to remove all doubts as to the right of lumbermen to use a stroom passing through pravate lands, even t' aigh not at ordinary times, if it could be made useful at a time of fresnet. If that be the proper construction of the section, then it would be necessary to examine the evidence for the purpose of ascertaining whether at the parti cular points where the stream passes through the plaintiff's land it was a floatable stream before the improvements, but as the other members of the court take a different view of the statute, it becomes unnecessary for me to do so. Upon the other appear from the passes of V. C. Forguson it becomes unnecessary to offer any opinion, except with a view to the costs. I may say, therefore, that to my mind the 27th section of the Appeal Act can have no application to a case of this kind-there can be no execution of a decree necessary or possible in a case where the decree is, if I may use the term, executed as soon as made. There was nothing to be done under it, and nothing further would require to be done unless it were disobeyed, in which case I apprehend that without the formal issue of a writ of injunction the parties to the suit could be proceeded against for con-

. I think, therefore, that the appeal should be dismissed with costs.

In the main appeal I am pleased to find that the other members of the court have seen their way to the allowance of the appeal, as a contrary conclusion could not have been otherwise than disastrous to one of the most important industries of the Dominion; the result is that the public become entitled to use the plaintiff's improvements without compensation, which was most properly secured to him under the Act which has recently been disallowed.

MISCELLANEOUS.

A CAR-LOAD of implements has been shipped by Mr. Watson, of Ayr, to Aberdeen, Scot-

THE Keewatin Lumbering Company are at present shipping eight to ten car loads of lumber per week from Rat Portage to Winnipeg.

An unusually large quantity of deals and other lumber has been shipped from Herbert River, N.B., this season.

MESSRS. BICKELL & WICKETT are going to build a tannery in Toronto, near the mouth of thb Don, and the Council has promised to exempt the property from taxation for a term of five years.

A NEW steamship is building on the Clyde for the Dominion Steamship Company, which it is stated will exceed the burden of the Allan steamship Parisian by three hundred tons. The name of the new craft is to be the Vancouver.

By an accident with a circular saw, Mr. W. Craig, foreman of Stevens, Turner & Burns, London, had a finger taken off, and a fellowworkman namad D. Bradley had three ribs broken by a flying piece of board from the saw.

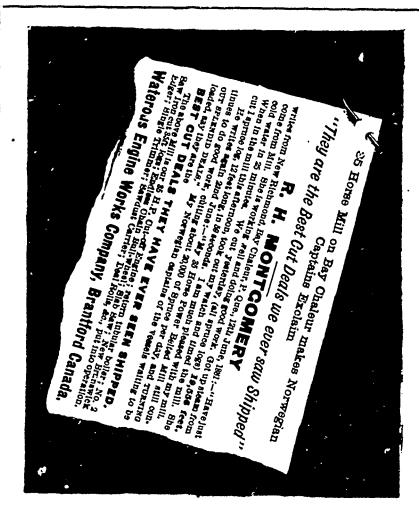
Busit fires have been doing considerable damage in several places in Quebec; not only has valuable timber been destroyed, but a great deal of fencing and in some cases farm buildings have become a prey to the flames.

THE Scottish American says: In New York State the replanting of forest trees has been attended with very good results, and it is noted that in one belt of country where replanting was general the rainfall has largely increased. In Kansas and Nebraska the results obtained from replanting are even more striking. The planted forest serves to break the force of the wind, and the influence of the woods' growth is seen in lessened periods of drought, and an increase in crops.

WHEN DOCTORS DISAGRER WHO SHALL DECIDE? The people often decide by "throwing physic to the dogs," and trying Burpock Blood Bitters, and the result is always satisfactory. Burlock Blood Bitters is the Multum in Parco of medical science, curing all disasses of the Blood, Liver and Ridneys. A trial bottle only costs 10 cents. A dollar bottle may save you many dellars in doctor's bills.

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