

By this statute the Legislature intended to confer upon lumbermen the right to use streams for flotation of timber with immunity from damage for injury done to the property of others, unless it can be found affirmatively that the operations were conducted negligently and with reckless disregard of the rights of others; and in this case negligence had not been established.

Action dismissed with costs.

BRITTON, J.

JUNE 23RD, 1915.

SHENANGO STEAMSHIP CO. v. SOO DREDGING AND
CONSTRUCTION CO. LIMITED.

Negligence—Allowing Boulder Placed in Stream to Remain Unmarked without Warning to Navigators—Injury to Vessel—Navigable Waters' Protection Act, R.S.C. 1906 ch. 115, sec. 14—Evidence—Findings of Fact of Trial Judge.

Action for damages for the defendants' negligence in placing a large boulder in a dredged navigable channel of the St. Mary's river on the Canadian side of the international boundary, whereby the plaintiffs' ship the "W. P. Snyder" was damaged. The plaintiffs complained that the defendants negligently allowed the boulder to remain in the channel without marking it by a stake or buoy or giving a warning signal of any kind.

The action was tried without a jury at Sault Ste. Marie.

Gideon Grant, for the plaintiffs.

A. C. Boyce, K.C., for the defendants.

BRITTON, J., reviewing the evidence in a considered judgment, said that there was no doubt that the vessel struck a boulder or rock; but the identity of that which it struck with a boulder placed by the defendants had not been established beyond reasonable doubt.

Assuming that the boulder had been identified, negligence on the part of the defendants must be shewn.

The plaintiffs relied upon sec. 14 of the Navigable Waters' Protection Act, R.S.C. 1906 ch. 115. It was doubtful if that section applied to this case. The defendants did not have charge of the boulder. But, even if the section did apply, the