

lands from which the water is artificially brought, or on some other legal origin:" *Rameshur v. Koonj*, 4 App. Cas. 121.

The first devise under the will of Ellis Burrell is of the foundry property to the east of the lane with "the right to use the waters of the said river to the extent of one-third thereof flowing to the south of the said river and to discharge the water into the said river at the most convenient place therefor." The most convenient place is that provided by the channel created therefor by the deviser, Ellis Burrell. And the down stream tenement was, as to the right to the flow of one-third of the water of the river, the servient tenement, and when the defendant became the purchaser thereof he was the servient owner, and as such must suffer the water to flow uninterruptedly over the servient tenement: *Godard on Easements*, p. 21. . . .

There is a very large diminution of the power to which the plaintiff is entitled, caused by the platform and wheel of the defendant obstructing the flow of the water through the flume and backing it up on the plaintiff's wheel.

Judgment for the plaintiff as prayed.

Millar, Ferguson, & Hughes, Toronto, solicitors for plaintiff.

E. G. Porter, Belleville, solicitor for defendant.