

The Dominion statute incorporating the Algoma Central and Hudson Bay R.W. Co. authorizes it for the purposes of its undertaking to acquire and run steam and other vessels for cargo and passengers upon any navigable water which its railway may connect with.

*Held*, that under the very large and general words of this clause the railway company was not bound to restrict the passengers and cargo transported by its vessels to persons and goods intended to be carried on its railway line.

*Watson*, K.C., for plaintiff. *Nesbitt*, K.C., and *Irving*, for defendant. *Riddell*, K.C., for the Province of Ontario.

Street, J., Britton, J.]

REX v. HAYES.

[Feb. 9.

*Conviction—Certiorari—Importing foreigner on labour contract—"Knowingly"—Mere irregularity or informality.*

Conviction of the defendant for that he did unlawfully prepay the transportation, and assist and encourage the importation and immigration of an alien and a foreigner from the United States into Canada under contract and agreement made previous thereto to perform labour and service in Canada by working at a factory, quashed as clearly bad on its face, inasmuch as the conviction did not state that the defendant "knowingly" did the acts charged, nor in fact did the information charge him with having "knowingly" done them, as required under 1 Edw. VII., c. 13, s. 3.

*Held*, also, that this omission from the information and conviction of one of the essential elements of the offence was not a mere irregularity or informality or insufficiency within the meaning of s. 889 of the Criminal Code.

It was not a matter of form merely, but of substance, and a fatal and incurable defect in the conviction.

*Watson*, K.C., for defendant. *O'Donoghue*, for prosecutor.

Divisional Court].

HEIGHT v. DANGERFIELD.

[Feb. 9.

*Will—Construction—Estate for life—Remainder to heirs—"Then surviving."*

A testator devised land to his wife "during the full term of time that she remains my widow and unmarried" and subject thereto to two sons "during the full term of time of their natural lives, and if either of my said sons should die not leaving heirs the issue of his own body, his surviving brother shall inherit his share of the said lands for the time being, and after the decease of both my said sons, the beforementioned land and premises