the defendants personally liable for the $400 and interest, and dismiss the defendants' appeal, each with costs.

DIVISIONAL COURT.

MAY 23RD, 1912.

MARGARET CAIN ET AL. v. PEARCE.

THOMAS CAIN v. PEARCE.

BONTER v. PEARCE.

McGRATH v. PEARCE.

McMILLAN v. PEARCE.

3 O. W. N. 1321.

Water and Watercourses—Mill Privileges—Dam Across Stream — Raising Height of—Easement—Flooding Neighbour's Lands — Statute of Limitations—Laches — Injunction — Reference—Log Driving—R. S. O. (1897) c. 142, s. 1—Costs.

Defendant mill owners, having mill privileges on Crow river, built a new dam across the river. Plaintiffs brought actions claiming damages for flooding their several properties, claiming that the new dam was considerably higher than the old dam. Evidence was received as to the height of both the old and the new dam.

TEETZEL, J., 16 O. W. R. 846; 1 O. W. N. 1133, found in favour of defendants on the evidence that the new dam was in fact no higher than the old dam, but that the old dam was in a very leaky condition, therefore, the new dam raised the level of the water on the neighbours' lands. Reference ordered to ascertain the damages sustained by plaintiffs. Having regard to the great delay of which all plaintiffs were guilty, and in their failure to establish that defendants raised the height of their dam, injunction was refused.

DIVISIONAL COURT, 18 O. W. R. 595, 2 O. W. N. 887, affirmed above judgment as to three of the plaintiffs and ordered a new trial as to the fourth.

TEETZEL, J., at the re-hearing, *held*, 19 O. W. R. 904, that plaintiff had exaggerated the amount of damages which he had suffered. Plaintiff was given reasonable compensation. Damages assessed as to the other three cases.

DIVISIONAL COURT dismissed the appeals with High Court costs. Pursuant to the arrangement of counsel the trial judgments were entered up as a Divisional Court judgment.

Actions for damages for overflowing lands.

The four first named were tried before HON. MR. JUSTICE TEETZEL, at Belleville, March, 1910, 16 O. W. R.