dants and by flooding by the defendants and others in exercise of their rights under R.S.O. ch. 142, in respect to which the plaintiff is not entitled to damages, I find that the plaintiff is entitled to recover from the defendants in respect of lot 8 the sum of $110 in full of his damages in respect of that lot up to and including the 7th July, 1911, for which sum and his costs throughout on the High Court scale, including the costs of the appeal, less the sum by which the costs have been increased by reason of his claim in respect of lots 9 and 10, judgment will be entered in his favour.

I also find that, if it be held that the plaintiff is entitled to recover in respect of lots 9 and 10, he will be entitled, after making the allowances above mentioned, in respect of lot 8, to the sum of $150 for the damages in respect of that portion of lot 9 which immediately adjoins Crow lake, and the further sum of $225 in respect of that portion of lots 9 and 10 adjoining and directly flooded by the waters of Crow river.

As to costs in respect of the claim for damages to lots 9 and 10, I adjudge and direct that there will be no costs, unless the plaintiff appeals from this judgment in respect of the said two lots, in which last mentioned event the plaintiff will pay to the defendants their costs which have been occasioned by reason of the plaintiff having claimed damages in respect of those lots.

TEETZEL, J.   AUGUST 5TH, 1911.

T. CAIN v. PEARCE CO.

M. CAIN ET AL. v. PEARCE CO.

BONTER v. PEARCE CO.

Water and Watercourses—Mill Privileges—Dam—Flooding Lands—Prescription—Damages—Assessment of.

These three actions and McGrath v. Pearce Co., supra, were tried together before TEETZEL, J., and judgment given in 1910: see 1 O.W.N. 1133. That judgment was affirmed as regards these three actions by a Divisional Court: ante 887.

Pursuant to the judgment at the trial, the three actions again came before TEETZEL, J., for assessment of damages.

H. E. Rose, K.C., for the plaintiffs.

E. G. Porter, K.C., for the defendants.