

The judgment of the Superior Court for the district of Ottawa, which is affirmed, was rendered by Mr. Justice McDougall, on June 30, 1914.

The plaintiffs are proprietors of a mill and a dam on the River Desert. They allege that damage was done to the flume of their mill by the flotation of logs by the defendants.

The following notes explain sufficiently the facts of the case.

*Mr. Justice Archibald, Acting Chief Justice:* It appears that there existed a depression in the bank of the river forming a little bay and leading to the flume of the plaintiffs' mill, and it is alleged that in the month of June, 1912, when the logs came down and got into the plaintiffs' flume, serious damage was done to the plaintiffs' mill; that the dam extending across the river at the point had been constructed so as to allow a depression in the centre which would draw the water more towards the centre of the dam and consequently incline the logs in that direction; that a good part of the damage was done by the eddy which existed below the dam which brought the logs up against some foundations of the plaintiffs' mill and injured them.

My own feeling about the case is this: that the damages was probably cause by the logs which entered the plaintiffs' flume, the proof seeming to show that the eddy would not carry logs up to the foot of the plaintiffs' mill. The defendants say that they were guilty of no fault; that if any damages was suffered, it was suffered by the negligence and fault of the plaintiffs themselves; that in previous years there had been constructed what is called a glancing boom, which is a boom which runs approximately parallel to the current from the part of the boom where