

FEBRUARY 6TH, 1903.

DIVISIONAL COURT.

NEELY v. PETER.

*Water and Watercourses—Injury to Land by Flooding—
Claim for Damages—Summary Procedure—Costs of Ac-
tion—Dam—Tolls—Injunction.*

Appeal by plaintiff from judgment of STREET, J. (4 O. L. R. 293, 1 O. W. R. 499), in so far as it was against plaintiff in an action for damages for flooding plaintiff's land, and for an injunction.

O. M. Arnold, Bracebridge, for appellant.

W. L. Haight, Parry Sound, for defendants.

THE COURT (MEREDITH, C.J., FALCONBRIDGE, C.J.), agreed with the judgment below and the reasons for it, but was of opinion that, in addition to the damages which were awarded to him, the plaintiff was entitled to an injunction as against the defendants the Parry Sound River Improvement Company, but the operation of it should be suspended for a year in order to enable these defendants to acquire the right to overflow plaintiff's land under R. S. O. ch. 194, and the judgment should be varied accordingly. No variation as to costs below, and no costs of appeal to either party.

FEBRUARY 6TH, 1903.

DIVISIONAL COURT.

WOODRUFF v. ECLIPSE OFFICE FURNITURE CO.
OF OTTAWA.

*Security for Costs—Application for Increased Security after
Trial Practically Concluded—No Application at Trial.*

Appeal by defendant company from order of BRITTON, J., ante 35, reversing an order of the local Master at Ottawa requiring plaintiff to give increased security for costs of defendant company.

The appeal was heard by BOYD, C., MEREDITH, J.

G. Bell, for appellants.

F. A. Magee, Ottawa, for plaintiff.

BOYD, C.—The action is practically standing for judgment as to the original defendants. As to the new defendants, the only defence open has practically been exhausted in the