

THE
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TORONTO, APRIL 26, 1906.

No. 15

ANGLIN, J.

APRIL 17TH, 1906.

TRIAL.

MILLER v. BEATTY.

Water and Watercourses—Dam—Flooding Lands of Riparian Owner—Cause of Injury—Damages—Release—Statutory Powers.

Action to recover damages for the flooding of plaintiff's lands by the waters of Otter Lake, caused, as he alleged, by the improper construction and maintenance by defendants, the executors of William Beatty, deceased, of a dam in the Boyne river, and for an injunction.

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

E. E. A. DuVernet and H. E. Stone, Parry Sound, for defendants.

ANGLIN, J.:—Defendants erected this dam in March, 1905, to float timber down the river. The dam was erected substantially, if not precisely, upon the site of a former dam built some 30 years ago by the Parry Sound River Improvement Company, which had not been used for many years, and had fallen into disrepair. The improvement company had refused to restore their dam.

Although this new dam differs in some details from the former structure, it is of the same height, and the evidence