

SEAMAN V. SAUBLE FALLS LIGHT AND POWER CO.—MIDDLETON,
J.—NOV. 1.

Water and Watercourses—Injury to Mill by Flooding—Unprecedented Spring Freshets—Failure to Shew Fault on Part of Defendants—Damages.—An action to recover damages sustained by the plaintiff, in the spring of 1912, through the breaking of a dam on the Sauble river, whereby the plaintiff's mill was flooded and partly undermined, and a quantity of lumber was, it was said, carried away and lost. The learned Judge finds that in the spring of 1912 floods were unusually severe; it was abundantly proved at the trial that they were unprecedented. The plaintiff did not really attempt to controvert this, but sought to shew that the disaster had taken place before the water reached a height which could be regarded as abnormal. The plaintiff failed in this attempt—upon the evidence. Upon the circumstances disclosed, the learned Judge is unable to find any liability on the part of the defendants; and he arrives at this conclusion with the less regret because, as he considers, there was an altogether unjustifiable attempt on the part of the plaintiff to inflate his claim for damages. The amount to be allowed to the plaintiff, if he should succeed in a higher Court, should be very much less than the amount claimed, and should not exceed \$585. While the action fails, and must be dismissed with costs, the defendants went to more expense than necessary in having so many witnesses present to testify to the serious nature of the spring floods, and that they should not on taxation be allowed for more than three witnesses called to give general evidence of this kind. W. S. Middlebro, K.C., for the plaintiff. R. McKay, K.C., and C. S. Cameron, for the defendants.

ROGERS V. NATIONAL PORTLAND CEMENT CO.—MASTER IN CHAMBERS.—NOV. 2.

Discovery—Examination of Plaintiff—Default—Failure to Justify—Con. Rule 454—Order for Plaintiff to Attend at his own Expense.—Motion by the defendants, under Con. Rule 454, to dismiss the action for the default of the plaintiff to submit to examination for discovery. The default was admitted, and also that the plaintiff had no legal or technical ground for non-attendance. It was said that the plaintiff's solicitors thought they were being unfairly dealt with by defendants' solicitor, and that he was trying to prevent or delay the examination of