

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.]

[March 12, 1902.

CHALLONER v. TOWNSHIP OF LOBO.

*Drainage—Qualification of petitioner—"Last revised assessment roll"—
R.S.O. (1897) c. 226—Costs of non-appealing party.*

Judgment appealed from (1 Ont. L.R. 156, 292) affirmed. Appeal dismissed with costs to respondent the Township of Lobo, but without costs to respondent Oliver.

Aylesworth, K.C., for appellant. Shepley, K.C., and Macbeth, for Township of Lobo. Burbidge, for Oliver.

Que.]

WARD v. TOWNSHIP OF GRENVILLE.

[June 9, 1902.

*Negligence—Vis major—Driving timber—Servitude—Watercourse—
Floatable rivers—Statutory duty—Riparian rights.*

The Rouge river, in the Province of Quebec, is floatable but not navigable, and is used by lumbermen for bringing down saw-logs to booms in which the logs are collected at the mouth of the river and distributed among the owners. The plaintiff constructed a municipal bridge across the river near its mouth where the collecting booms are situated. The defendant and a number of other lumbermen engaged in driving their logs, mixed together, down the river, did not place men at the bridge to protect it during the drive, and took no precautions to prevent the formation of jams of their logs at the piers of a railway bridge which crosses the river a short distance below the municipal bridge, nor did they break up a jam of logs which formed there, but they abandoned the drive before the logs had been safely boomed at the river mouth. The River Rouge is subject to sudden freshets during heavy rains, and, on the occurrence of one of these freshets, the waters were penned back by the jam and a quantity of the logs were swept up stream with such force that the superstructure of the municipal bridge was carried away. In an action by the municipality to recover damages from the lumbermen, jointly and severally.

Held, affirming the judgment appealed from, the Chief Justice and Sedgevick, J., dissenting, that, irrespectively of any duty imposed by