

MACMAHON, J.

DECEMBER 28TH, 1906.

## TRIAL.

## PINKERTON v. TOWNSHIP OF GREENOCK.

*Water and Watercourses—Overflow of River—Injury to Adjacent Lands—Bridge Constructed by Township Corporation—Effect of, in Damming Water back—Extraordinary Freshets—Employment of Competent Engineers—Non-liability of Corporation.*

Action for damages for injuries to plaintiff's lands by flooding, caused as alleged by a bridge built by defendants.

W. M. Douglas, K.C., and A. R. Clute, for plaintiff.

A. G. MacKay, K.C., and D. Robertson, Walkerton, for defendants.

MACMAHON, J.:—Plaintiff is the owner of lots 1 and 2 in the village of Pinkerton, in the township of Greenock, containing about two acres, on which are erected a dwelling-house, grist mill, woollen mill, saw mill, and barn. . . .

The Teeswater river at this place is somewhat in the shape of a shoe, and plaintiff's two acres are bounded to the south and west by the river, and to the east by a pond, which is connected with the north bend of the river by three race-ways used for running the woollen, saw, and grist mills. . . . The whole of plaintiff's land is very flat, but the part fenced in as a garden has been raised by dressings of earth in places from 3 to 8 inches above the bed of the stream. Plaintiff said that the subsoil being gravel the water percolated through it from the river to the cellar of his house . . . which was more or less flooded every year.

At the south-east end of plaintiff's land there is a stone and timber dam across the Teeswater river, 90 feet long; and down the river 750 feet from the dam, and near the north-west corner of plaintiff's two acres, there was a stone and wooden bridge across the river, constructed about 45 years ago, which I find was 105 feet in length between the abutments, and supported in the centre by a wedge-shaped pier 18 or 20 feet in length and 10 to 12 feet wide at its