

In the spring or early summer of 1912, they decided to bring down the logs by the South Magnetawan as far as plaintiff's lands, and drive them easterly into the bay or inlet to the south thereof, where by means of a jack-ladder—which they built in July, 1912—they intended to take them from the water and load them on cars on the Canadian Northern Ontario Railway Co.'s tracks, which at that point are but a short distance north of the waters of the inlet.

At points along the river are dams. One of these is located above the point where the two branches of the river divide. Another is on the South Magnetawan river between six and seven miles below plaintiff's property. From his property to the latter dam the water is practically level, in which, according to one of the witnesses, logs would drift with the wind; but not with the current. To facilitate the operation of bringing the logs to the point where they were to be loaded on the cars, defendants changed the upper dam and put stop logs in the lower dam thereby raising the water in the vicinity of the plaintiff's property to a height of about seven feet above its usual level.

Defendants also placed across the river three booms, one just above plaintiff's property, and two a short distance below it. These two were for the purpose of preventing the logs from going further down the river so that they could be easily turned into the bay or inlet. Defendants placed another boom across the bay or inlet near its westerly end for the purpose of confining the logs therein until taken over the jack-ladder to the cars.

The evidence of the president of the defendant company is that 129,000 logs were to have been taken by defendants through these waters in the summer of 1912, and so loaded.

Plaintiff and his family occupied this property of his during the past summer.

Defendants' logs started to come down the river about June 1st, and they were allowed to accumulate in the water in front of plaintiff's residence, being held there by the booms until taken into the inlet; there also they lay in large quantities.

According to the evidence of Joseph Simpson, a resident of the locality for more than twenty years, and familiar with its conditions, there were between 50,000 and 60,000 logs stored in the inlet in August.