

the machine in itself could have been rendered less dangerous by any sort of guard or protection.

I think the plaintiff is entitled to recover, and I assess the damages at \$600.

Judgment for plaintiff for \$600 damages and costs.

MABEE, J.

OCTOBER 1ST, 1907.

TRIAL.

SERVOS v. STEWART.

Water and Watercourses — Lands Bordering on Navigable Lake—Rights of Riparian Owner—Removal of Sand or Gravel from Shore—Trespass—Injunction—Damages.

Action for trespass to land.

J. H. Ingersoll, St. Catharines, for plaintiffs.

G. F. Peterson, St. Catharines, for defendant.

MABEE, J.:—Plaintiffs own lot 5 in the 1st concession and broken front of the township of Grantham. The description in the Crown grant, which issued on 8th July, 1799, covering lot 5, runs as follows: "Beginning on the shore of Lake Ontario where a post has been planted at the south-east angle of lot No. 5, marked $\frac{R}{5}$, thence south . . . to the place of beginning." A plan made by Mr. George Gibson in 1871, from a survey made by him, shews that at that time the water line had receded between 7 and 8 chains, and he stated at the trial that since 1871 between 3 and 4 chains more have washed away. Plaintiffs' farm is cultivated down to the edge of the bank; this is a clay loam ranging from 10 to 15 feet in height, at the foot of which lies the shore composed of sand and gravel of varying width, in some places 20 feet, and in others the margin of shore or beach is very small. I find upon the evidence of plaintiff Alexander Servos, and of George Coppen, that this shore or beach forms a protection to the bank, and at the points where the shore is widest and highest, the bank is less liable to wash or cave down during high water and storms than where the shore is low or narrow.