

allel to the said river, 30 chains; then north 45 degrees west to the said river; then along the bank with the stream to the place of beginning";—

*Held*, MAGEE, J., dubitante, that having regard to section 81 of the Surveys Act, R.S.O. 1897, c. 181, the river formed the northerly boundary, and the lot did not extend usque ad flum aquæ. *Robertson v. Watson* (1874), 27 C.P. 579, 599, followed.

The question whether the river at and above and below the locus in quo was navigable or unnavigable need not be determined, in view of the decision of the Court of Appeal in *Kee-watin Power Co. v. Kenora* (1908), 11 O.L.R. 266.

The plaintiff claimed, as part of lot 5, a bar or deposit of gravel and sand below the bank of the river. This sandbar as to vegetation retained the characteristics of a bed of the stream. For the greater part of the year it was covered with water, and during the remainder was frequently under water, while at times of freshets the water covered it to a depth of 25 or 30 feet, and sometimes overflowed the bank, which was of at least that height.

*Held*, that the bar had not become land formed by alluvium, but still formed part of the bed of the river. *Hindson v. Ashby* (1896), 1 Ch. 78 (1896), 2 Ch. 1, followed.

Judgment of CLUTE, J., reversed.

*Matthew Wilson*, K.C., for defendants, appellants. *A. H. Clarke*, K.C., and *D. H. Smith*, for plaintiff.

Falconbridge, C.J.K.B., Britton, J., Riddell, J.] [March 5.

ROBINSON v. MORRIS.

*Security for costs—Action against constable for arrest of plaintiff—Defence on merits—Affidavit—Insufficiency—Grounds—Belief—Rule 518—Agent—Solicitor.*

The provisions of R.S.O. 1897, c. 89, requiring plaintiffs in actions against justices of the peace and other officers fulfilling public duties, to give security for costs, in certain circumstances, must be followed with some approach to strictness, the right given being a variation from the usual course of litigation. The affidavit filed on behalf of the defendant, a constable, in an action brought against him for the arrest of the plaintiff, in support of a motion for an order for security for costs under the Act referred to, did not, in the part indicating the nature of