

1stly. "That this part of the river (meaning the part along my wharf) was before the erection of that wharf navigable." This is your judicial statement implying that owing to that wharf it has ceased to be navigable.

2ndly. That schooners have sailed up as far as the appellant's (Brown's) mill.

3rdly. That it is doubtful if (whether would have been a more appropriate word) "a skiff of the very smallest size" could at this day be brought to the mill."

You pin your faith upon Lambly, and can have no objection to my citing in relation to the navigation, his very words.

"The river Beauport I look upon as little more than a creek, the same as the river St. Charles. I consider all rivers creeks which are dry at low water." Bearing in mind that Lambly was an Englishman, the word "creek" in his mouth has an English, not a Yankee signification. "The river Beauport, he adds, is a small river, but is navigable at high water to near the mill for bateaux, SMALL schooners and so forth."

You have a genius for amplification. The plaintiff complains only of damage, but you set the judicial seal to it and it becomes very great damage. The witness upon whose testimony your judgment is founded indicates the size of the schooners, he used the word *small*: but unless the possession of judicial power places you above the reach of criticism, I may remark that you omit, of course, purposely omit, the qualifying adjective. You probably know too that bateaux, a primitive sort of lighter or diminutive craft, draw at most, when fully laden, from three to six feet of water. It was probably intended to represent them as being larger than the small schooners, in which case the "and so forth" might be intended to cover anything down to a canoe. If on the contrary the witness be understood to have meant to depose in an ascending climax, the "and so forth" may apply to a hundred and twenty gun ship! It was the business of my adversary to have proved his case by clearly intelligible and credible testimony, nor need I now speculate upon a part of his evidence not intelligible and therefore not likely to be taken into consideration by an impartial judge. "Schooners," you say, "have sailed up as far as the appellant's mill," and you cite no other witness than Lambly. Now begging your