indicative of decline. During the period which we have selected the work of County Courts has expanded. The plaints entered rose from 912,298 in 1870 to 953,414 in 1884, and the total amount for which they were entered was 2,644,762*l.* in the former year, as against 2,936,820*l.* in the latter. But we are inclined to think that, compared with the advance by 'leaps and bounds' in wealth and population, statistics of legal business indicate an arrest in development and a partial atrophy of our Courts.

COURT OF QUEEN'S BENCH.

QUEBEC, Feb. 4, 1886.

Before DORION, C. J., MONK, RAMSAY, CROSS, BABY, JJ.

LA COMPAGNIE DU CHEMIN DE FER DU NORD (deft. below), Appellant, and PION et al. (plffs. below), Respondents; [and a cross appeal.]

THE SAME, appellant, and PICARD (deft. below), Respondent; [and a cross appeal].

Beach of Navigable River—Riparian Proprietor—Deprivation of Access—Right of Indemnity.

HELD:—*The use which riparian proprietors may have of the beach of a navigable river adjoining their lands, is not a right of property nor even a right of servitude, but a mere "droit de tolérance" which ceases, without right to indemnity, as soon as the Crown concedes or otherwise disposes of such part of the public domain.*

Hence, where the legislature authorized a railway company to construct its line along the shore of a river, and the company, under the authority so conferred by the legislature, constructed its line along the beach between high and low water, and thereby deprived riparian proprietors of access to the river, to the great injury of the business previously established and carried on by them, it was held that an action of damages could not be maintained against the railway company by the persons who were so cut off from access to the river, the Crown having the right to authorize such construction, and no redress being provided by the Statute.

RAMSAY, J. (*diss.*) This is an appeal from a judgment condemning the company appellant to pay $5,000 damages for cutting the respondents off from the communication of their land with the river St. Charles, a navigable river.

The company pleads several grounds of defence. It is said, first, that the railway is constructed on the beach, with the consent of the Harbour Commissioners who are owners of the beach, and that therefore respondents have no right to complain. Secondly, that if there be any damage, it is incurred under a statute authorising the company to construct the railroad, and therefore the company is not liable, being protected by a statute, which reserves no right to indemnity for injury such as that. And, thirdly, that if there is any liability by the company it can only be established by arbitration. A fourth reason is that there is no appreciable measure of damages.

The title conferred upon the Harbour Commissioners is only in trust, for certain defined purposes and for none others. Sections 15 and 16, 36 Vic., ch. 62, are express on the point. Sec. 15 is in these words:—

"All property acquired and held by the Quebec Harbour Commissioners under this act shall be held to have been and is hereby declared to be transferred to and vested in and to be the property of the said corporation, *in trust, for all purposes for which the said corporation was created*, as fully to all intents and purposes as if so vested in them by their original act of incorporation."

The construction of a railway from Quebec to Montreal was not among the purposes for which the Harbour Commission was created. It is therefore evident that the conveyance by the Harbour Commission of the beach to a railway company is totally unauthorized.

The second ground of defence involves a question which has given rise to some discussion in other cases. However, the question does not really come up in this case, as it appears before us. The statute referred to by appellant, 43 and 44 Vic., ch. 43, provides for indemnity to all owners of lands or *interested in lands*, which may suffer damage from the taking of materials, *or the exercise of any of the powers granted to the railway*. Sec. 11. This seems wide enough to meet the issue raised by the second ground of defence.