

the point Z, the treshet water found its way under the ice and escaped without difficulty.

This testimony having been read to the witness, he persists in his statement and has signed.

JOHN FERGUSSON.

Examined and sworn before us, the undersigned Experts, this 2nd day of April, 1859.

(Signed) A. WALLACE,  
CHS. BAILLARGE,  
ED. STAVELY.

GEORGE BISSETT, of the City of Quebec, in the District of Quebec, Founder, aged above 21 years.

The Defendant objected to the examination of this witness as he has already been examined in this cause; overruled. A. W. ; C. B. ; E. S.

I have known the Plaintiff's premises at Beauport more or less for twenty seven years. If I mistake not I myself occupied the mill from eighteen hundred and thirty five, to eighteen hundred and thirty eight inclusively.

In my time the diameter of the water wheel was something about twenty feet. The distance from the underside of the buckets to the ground was as near as I can remember from nine inches to one foot, but I did not measure it and I say so because I think it must have been so, when I was there according to the state of the tide the mill wheel used to stop two hours and a half, three hours, and three hours and a half, and at extremely high tides about four hours, as soon as the water begins to touch the bottom of the wheel it diminishes the power, but we let the mill go as long as she would go by adding a little more water if we had it to spare. We did not let the wheel go until it stopped of itself, but stopped it when it began to lag. I am not aware in my time that the mill wheel ever stopped from causes other than those of high tides such as spring freshets which went right round the small island between the discharge of the mill race and the main Beauport river.

I am not aware of the mill wheel having ever been stopped by ice jams in the spring, causing the water to rise. I have sometime visited Plaintiff's mill. I have had no occasion to observe and cannot say how long the mill wheel stops since the erection of the Defendant's wharf.

I am not aware that the Plaintiff has built a wharf between the stone store and the wooden store. In my time there were three water wheels each running two pairs of stones; when there is plenty of water above the mill we might let the wheel be submerged one foot more or less before we stopped the mill but the moment of stoppage depends a great deal upon the power and quantity of water above the mill for every inch of submersion retards the work and strains the wheel. When I say a foot, I mean a foot from the under edge of the buckets.

In my time two of the wheels were not exactly abreast, but one of them overlapped the other. Now there is a large wheel which fills up the space occupied by the two downstream wheels. The breadth of the present wheel is as near as possible six feet. There are still two wheels. Is it not judicious to allow the wheel to continue turning when there is backwater as I have already stated, it retards the work and strains the wheel.

Question.—In such a case as this, does it appear to you that the proprietor of the mill, such as the Plaintiff is, as an advantage over the Defendant who cannot enter the mill, while the Plaintiff may stop it and even contrive that it should appear to be stopped in order to attain his end.

Question objected to. Question overruled as containing a self evident proposition. A. W. ; C. B. ; E. S.

The foregoing deposition being duly read to the witness, he persists therein declaring the same to contain the truth, and hath signed.

GEORGE BISSETT.

Examined and sworn before us, the undersigned experts, this 2nd day of April, 1859.

(Signed) A. WALLACE,  
CH. BAILLARGE,  
EDW. STAVELY.