

I am an Englishman, I left England in eighteen hundred and fifty four, and in the Summer, it was on the first of December, of that year, that I reached Beauport.

There is, as I said herein above, a wharf that is built across the river it is so built across the river at the end of the tail race. I mean the wharf on the Defendant's side of the river, marked "wharf built in 1852." If the course of the river was not stopped in that way by that wharf, no harm would be done, not in the least. I mean to say that the water would, but for that wharf, flow down in its natural channel, and not interfere at all with the tail race. I am quite positive of that, I am quite certain of it, it is a fact for which I pledge myself. I did not see the wharf built of course, I never saw the river flowing in that channel. Of course I could not see it when it was shut off by the wharf. Being requested to describe the said natural channel, I have marked upon Weir's plan, in the presence of the Experts, the line of that natural channel, of the existence of which I speak of, as a fact commencing at the point F, as marked by me, and ending at the letter A, which I have also marked, of course it would extend from the said point C, down to the corner of the low wharf, where it would fall into the other channel of the river.

I remember well the condition of the tail-race, when I entered the service of the Plaintiff, it is precisely in the same position now as it was at that time, it has never been changed in any way. I have been in the habit of working in the river, on my own account. No stones were ever put at the bottom of the point which lies near to the north-east gable of the mill, but I have worked in the tail-race, to clean out the sand and gravel which was caused by the freshets and which prevented the mill from working. Because the mill could not work until that was removed. The eighteenth of March was on a Thursday or Friday as I hear Mr. Staveley say that it was on a Friday, I refer to my book and find it so, I mean to say that there was a freshet on the eighteenth of March, which stopped the mill, and it was so stopped until one quarter before twelve, on the Monday following, the 21st of March last. Of course what I mean, is that the mill did not grind in the interval, I speak of the month of March last, on the seventeenth day of which month, I saw Mr. Staveley, one of the Experts, on the spot.

The Plaintiff was there that afternoon, but it was not purposely that he was there. On the nineteenth I saw all the Experts there. The flood gates were up the whole of the day of course they could not be closed for ten minutes as the river could not contain the whole of the water that came down it. I did not run out to open the flood gates immediately after the Experts had arrived. I am positive I did not raise the gates that day, but they had been raised all day. The flood gates are to the north of the mill. After the arrival of the Experts they assembled on the south side of the mill therefore the mill was between the Experts and the flood gates. I call the channel which supplies the mill and moves the wheel "the shoot." The gate of the shoot was not open on the said Saturday on which the said Experts were there.

That freshet operated upon the mill like every other freshet during the spring, and the freshet on the 21st of March last was the same sort of thing. There was at that time, I mean on the 21st a quantity of ice on the tail-race, and the floods sank that ice, and it formed a dam which prevented the water from flowing; I mean to say that the ice of which I have spoken as being in the tail-race was at the point where the word race is written on Weir's plan, near which to mark the point, I have marked my initials J. F., and the way the flood operated was that it flowed over the point below the O, from the letter C, in channel, to the word race aforesaid.

The waters so passed over the point because it was obstructed at the corner, I am quite certain that none of the millers ran out to open the flood gates, when the Experts came on the nineteenth.

The stoppage of the mill, of which I have spoken, which took place from Friday the eighteenth to Monday the twenty first, consecutively, was owing to the cause which I have stated and to no other cause, no trick of any kind was played. Nothing was done to stop the mill by human hands, the mill would have worked had it not been for that cause as above stated. The cause to which I advert was a jam of ice which occurred on the eighteenth and stopped the mill until the twenty first. The river at the same time was as usual with locks; each jam of ice keeping the water back. There was a jam where I have marked with the figure "1" opposite the letter "E" in erecting another jam at the figure "2" opposite the preposition "in" there was another near the point "X," there was another immense one being the largest of the whole, at the figure 1, opposite the letter F in WHARE, of the sentence "wharf erected in 1852" and there were sundry other jams as far as the point Z. There were none below that point. The jams existed from Friday to Monday, the twenty first though not so great an extent on the morning of Monday. They existed to the full extent on Saturday the nineteenth and though not to the same extent on Monday morning, yet they existed sufficiently to stop the working of the mill up to one quarter before twelve. The water by that time had diminished in the Beauport river. I walked all down the river below the point Z, and there were no jam any where else except where I have stated below