lition of defendant's dam (the work complained of), so as not to exceed 22 inches in height. The defendant appeals. Both parties set forth their titles, which call for no special remark. I presume it was intended to base some argument on the former rights of Seigniors to the whole water powers, and therefore to the right of extending their works beyond the limits of any particular property. It seems to me that all claims dependent on these rights, except in so far as these rights were actually being exercised at the time, have been swept away by the Seigniorial legislation, and we have therefore to examine into the contestation of two riparian proprietors who stand on a perfectly equal footing. The difficulty appears to arise in this way—the Appellant, a manufacturing company, possessed of very extensive water privileges above the line of defendant's property, complains that the defendants have maliciously put a dam, useless to them, which, however, obstructs the flow of water from their tail-race, and thus weakens the power by which their machinery is propelled. To this defendants, in effect, answer, that they have only exercised their rights as riparian proprietors, and that if any damage is caused they are not responsible, that in fact they have not stopped the natural flow of the water, but that the plaintiff has, by increasing his own works above, directed the waters of the river out of their natural course, and so created an artificial accumulation of water which can only escape by the tail-race; that furthermore, by these works of plaintiff, defendants were obliged to construct the dam complained of by plaintiff in self-defence, for that plaintiff's new works had deprived defendants of the water that would naturally have flowed to their mill. Defendants also deny that there was any damage. In addition to this they plead that they can at all events only be condemned to damages, for that by a statute, styled—"an act respecting the Improvement of Water-courses," a proprietor may improve the water-power opposite his own property to the destruction not only of his neighbour's property, even if it be a water-power, and that for this such proprietor is only liable in damages, and that he cannot be compelled to remove the obnoxious structure. Moreover, these damages can only be established by an *expertise*. I am not surprised that the Act in question should form matter for extraordinary pretensions. It is a wonderful piece of legislation, and appears to be the work of some one equally ignorant of the laws of nature, of those of this country, and of the general principles of jurisprudence. I don't know the particular history of this Act, but I fancy its existence can be readily explained. It first graced our Statute-book in 1856, being sanctioned on the 1st of July of that year, eleven days after the Seigniorial Act of 1854 had been "further amended." Evidently it occurred to some acute person that the Seigniors being deprived of their riparian rights they would devolve to the Crown, and that it was desirable to present them to his electors. The mode was immaterial, and hence we have the statute in question. I cannot think that the Act can have any further significance than this—that each riparian proprietor should possess the water-privilege opposite his own land, and that if any one sought to obtain damages from him for an injury done, these damages should be established by an *expertise*. To interpret the Act to mean that there was to be no action but this for damages, no matter what a proprietor might do under pretext of improving a water-course, would be at once to destroy all notions of property and any possible object, that can be avowed, in favour of the Act. Again, the estimation of damages has been made by *expertise*, and therefore it would appear that all technical objections to the action are disposed of, and we have only to enquire as to the merits. These present serious difficulties, for the question of fact is rather complex. We have to consider the effect of the extension by plaintiff of dam No. 1, and also the effect of the dam complained of.

With regard to the first of these works, it is evident that however practically correct the defendants' objection may be to the extension of dam No. 1, and the restraining of the water so collected down to the point of division of their line and that of plaintiff, it can have no effect in this case. Defendants have endured, nay they have concurred in the existence of this work. They have themselves constructed a dam almost parallel, of the same sort, which runs up the river higher than their division line, coming constantly opposite the property of the plaintiff. Again, they have joined the end of the quai du No. 3, with their dam, and make use of it. Therefore it is clear they cannot mix up this question