

sequence of the plaintiff's dam, which obstructed their passage, that the defendants, by reason of the plaintiff's refusal aforesaid, were justified, in removing a portion of the said dam, to effect a passage for their logs, and that, in so doing, they acted under the direction of the plaintiff himself, as to where their men engaged in that operation should begin, and what portion of the said dam they might take down, with the least possible injury to the plaintiff, in effecting a passage for the said logs which could not be driven through the said dam, without seriously damaging the same, and, thereby, occasioning a very heavy pecuniary loss to the defendants, doth maintain the said exception of them the said defendants, and doth dismiss the plaintiff's action in that behalf, with cost.

Ce jugement fut porté en révision, à Montréal, devant trois juges de la Cour Supérieure.

Le demandeur s'appuya sur les dispositions du chapitre 51, des Statuts Refondus pour le Bas-Canada,

Les défendeurs prétendirent que cette loi statutaire ne s'applique pas aux dépendances de la Couronne. Ils citaient 4 Blackstone's comm. par Chitty, p. 167. 8 L. C. Reports p. 147 Chapman *vs.* Clarke *et al.* Ramsay's digest, vo. "Rivers" p. 267 No. 6 et vo. "Servitude" p. 295 No. 1.

Ce jugement fut confirmé en révision.

PER CURIAM.—The Court holds, that the owner of a property, on the banks of a floating river has no right to bar the same, by stretching a boom across it, and that a river floatable, only at a certain season of the year, comes *under* the general rule.

Joubert, avocat du Demandeur.

George S. Carter, avocat des Défendeurs.

COUR SUPÉRIEURE (En Révision.)

MONTRÉAL, 30 JANVIER, 1872.

Coron MONDELET, J., BERTHELOT, J., BEAUDRY, J.

No. 754.

WORTHEN *vs.* HOLT.

Jugé : 1o que le député-protonotaire n'a aucun pouvoir de fixer, en