

. THE question at issue in this Appeal respected the right to the use of the river Yamachiche, a river not navigable, in the district of Three Rivers, in the Province of Lower Canada.

By the laws of Lower Canada, the *seigneur* of a *fief* is the proprietor of rivers not navigable, as far as they flow through the seigniory.

The appellant, Pierre Benjamin Dumoulin, was one of the *co-seigneurs* of the *Fief Gros Bois*, through which the river flows. The respondents were also *co-seigneurs* of the *fief*.

In the year 1820, the respondent, Gadioux St. Louis, erected a grist-mill; and in the year 1821 he also erected a carding and fulling mill near the grist-mill, upon his own land within the *fief*, and in order to accumulate a sufficient supply of water to work them, he caused a dam to be thrown across the river at a point above the mills.

In 1831, the appellant, Augustin Gadioux St. Louis, erected a saw-mill upon the same river, at a point higher up than the respondents' mills; and for the purpose of working this mill he caused a channel, or canal, to be made from a point on the river above the respondents' dam, to a point below such dam, whereby a portion of the water was diverted from its natural course, and from flowing over the respondents' land, which impeded, and at times actually stopped, the working of the respondents' mills.

In consequence of this encroachment upon their rights, the respondents, on the 22nd of september 1832, instituted an action in the court of King's bench for the district of Three Rivers, against the appellant, Augustin Gadioux St. Louis, for the purpose of having the canal made by him stopped up, and for a prohibition against any future diver-