

1849. from his saw mill, between his mill dam and the edge of the slide, a pile, consisting of saw dust, planks and pine bark: that one *Graham*, on the part of the government, had desired the defendant, on the 21st of *November*, 1846, to remove the said obstruction, but that he had refused to comply, asserting "an equal right with the government to the use of the channel in question. And the information alleges, that should the obstruction be allowed to remain, "*and should other piles and heaps be placed in the said channel, and suffered to remain, the operation of the said slide would be greatly obstructed* ; that on the same 21st of *November*, 1846, the engineer in charge of the works had caused certain stop logs to be placed at a point designated on the map as A, for the purpose of shutting off the water, in order to repair the slides: that the defendant had removed those logs, or some of them, *in consequence of which the repairs have been delayed some hours*: that on the 22nd day of *February*, 1847, the defendant had caused some saw logs to be placed in front of a point designated sluice B., and that such logs, if continued, would prove injurious to the works, which required the water to flow through sluice B. as well as through the slide. The information, after stating a covenant contained in the conveyance from *Sherwood* to his then Majesty, which I shall not further notice, because it was admitted that it could not affect this application, proceeds to aver that, should the closing of sluice B. be repeated, the traffic and business of the said works would be greatly impeded in a way which could hardly be estimated, or possibly diverted into other channels, and the public revenue thereby much diminished.

Judgment.

The information then sets forth a pretence made by the defendant, that prior to the construction of the *Chaudiere* slides, he, the defendant, had a dam in the river, and that the officers employed in the construction of those works had promised that the bottom of the slide B. should not be lower than the top of his dam had been, and this pretence is said to be false; and it is charged that, on the contrary, the defendant, in *November*, 1846, and since, claimed a right to the uninterrupted use of the water, and threatened

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