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PRVINCE
OF
LOWER CANADA, }

COURT OF APPEALS.

In a cause, between

PHILEMON WRIGHT,
(Defendant in the Court below.)

Appellant,

AND

LUCY CUVILLIER,
(reprenant l'instance in the Court below.)

Respondent,

for

WILLIAM HULLET,
(Plaintiff in the Court below.)

APPELLANT'S CASE.

THIS was an Action brought by the late William Hullet, in his lifetime, for the recovery "of five hundred pounds of current money of this Province, for ground rent of divers large quantities of staves, timber and plank, of and belonging to him the said Philemon Wright and kept for a long time on a certain cove or beach, of and belonging to the said William Hullet, situate and being at Silleri, in the parish of Ste. Foi," near the City of Quebec.

To this declaration the Appellant pleaded:—

1° A General Demurrer.

2° A plea of general issue non assumpsit.

3° A plea of Peremptory Exception.

In this last plea the Appellant states, that the cove or beach, mentioned in the declaration of the Plaintiff in the Court below, is part of the beach of the river St. Lawrence and an appendage thereof, which said river being a navigable river, he the said Appellant had and hath a right, in common with all other His Majesty's subjects, to navigate the same and make use of and place upon the beach thereof his timber, without paying for such use, and placing aforesaid to any person or persons whomsoever any rent or sum of money for the use of the said beach or cove, as in and by the said declaration is demanded.

2dly.—That the said William Hullet is not the owner, proprietor or lessee of the said beach or cove mentioned in the said declaration, and that he the said William Hullet hath not acquired any right or title thereto in any manner whatsoever to entitle him to demand, sue for and receive any rent or sum of money from the Defendant or from any person whomsoever, for any timber placed or laid on the said beach or cove.

3dly.—That by law the said beach or cove is inalienable and the property thereof together with the river St. Lawrence, of which the said cove or beach is an appendage, is vested in our Sovereign Lord the King and reserved for the free use of his subjects navigating the said river St. Lawrence.

4thly.—That the said William Hullet hath not any grant, lease or title of any description or kind whatsoever from our said Lord the King, or from any person or persons holding or deriving any title from our said Lord the King to entitle him to ask, demand, sue for or receive any rent or sum of money for timber laid or placed on the said beach or cove.

Upon