

year 1809 granted by his then Majesty to one *Randall*, in fee simple: that the said parcel of land, by several mesne assignments, became vested in one *Sherwood* in fee, who in the year 1829 conveyed one acre thereof to his then Majesty in fee; and the aforesaid parcel of land was acquired by his Majesty under the provisions of an act of the parliament of Upper Canada, authorising the construction of the Rideau Canal, and that the consideration for the same was paid out of "public funds:" that upon the day of the execution of the last mentioned conveyance, one *John By*, an officer in his Majesty's service, then engaged in the construction of the said work, demised the said acre of land to one *Frith*, for thirty years; and in consideration of expenditure already incurred by the said lessee in the erection of mills upon the said premises, the said *By* agreed to forego the stipulated rent for a period of fifteen years. The indenture of lease first referred to, contained covenants on the part of the lessee which have been set out in the information, as evincing the right of the Crown to the relief now asked, to which we shall not now farther allude, as it will be necessary to refer to them more particularly by and by. It appears that all the interest of *Frith* in the demised premises has been assigned to the defendant, who has been for some time, and now is in possession of the same. The information further states that the soil of the river Ottawa is vested in her Majesty, in right of her crown, as is also the land on both banks, and both above and below the broken front of lot 40: that large quantities of timber are annually floated down the river Ottawa; and that in consequence of obstruction in that part opposite lot 40, various slides had been constructed by government, several years before the filing of the information, along the course of the Chaudiere rapids, to facilitate the passage of timber, which was subjected to a toll for the use of such works; and that such toll constituted part of the revenues of the province: that such works had not *materially* interfered with the natural flow of the stream, or prevented the efficient working of the mills of defendant: that in the month of *October*, 1846, the defendant had deposited, or rather allowed to accumulate

1849.
Attorney-Gen.
v.
M^r Laughlin.

Judgment.