or otherwise than by a petitory action to vindicate the title to ownership of the land, it should be—perhaps it was meant it would be—suspended until the title to the land was established.

That answer establishes that the plaintiff, by the law of the Province of Quebec, where the land is situated, could, while the ore was in that Province, have maintained an action for both the land and the ore, or for either of them.

If the action were brought for the ore alone before or otherwise than by a petitory action to vindicate the title to ownership of the land, it would be stayed until the title to the land was established.

That is, as I understand it, if it were necessary to establish the title, but not otherwise. If, for instance, the plaintiff were in possession, and a mere trespass had been committed, the act or fact of trespass alone might be in controversy without any claim being made to the land by the defendant, or without the title of the plaintiff to the land being disputed.

If the title to the land is in contention, then the ore may be sued for separately from any claim of title being put forward to the land by the plaintiff, or a petitory action may be brought. In the former case the proceedings for the ore will on such separate action be stayed by the Court until the title to the land be first settled by a petitory action. That is an action I believe somewhat like an ejectment in which the title to the land is in question. If the plaintiff succeed in it, and if he had before brought an action for the ore, he would be at liberty then to continue it. But he may, instead of prosecuting separately for the ore, recover as an incident in the petitory suit compensation for the ore which had been taken from the land by the defendant.

Such incidental claim is, I believe, in the nature of our claim for *mesne* profits, but it is adjudicated upon in the petitory action if the plaintiff desire it, or it may be sued for in a separate action, as by our law for *mesne* profits he would be obliged to do, if the plaintiff elect to do so.

We are in effect trying the title to the land, because we