

1849. Earl Cowper v. Baker, (a) Storer v. Great Western Railway Company, (b) Franklyn v. Tuton, (c) Flint v. Brandon, (d) *Jeremy's Eq. Jur.* 327.

Attor'y-Gen.  
v.  
M'Laughlin.

Mr. Mowat for defendant.—The acts complained of in the information are mere common trespasses, and not a proper foundation for a special injunction.—*Mogg v. Mogg*, (e) *Mortimer v. Cottrell*, (f) *Courthope v. Maplesden*, (g) *Deere v. Guest*. (h)

The defendant's conduct is no breach of the covenant set out. He has not interfered with any government works "on the demised premises;" and to these the covenant is expressly confined. The government had no right to erect slides to impede the navigation of the river, or to interfere with the mills thereon.—*Attorney-General v. Richards*. (i) It also appears from the answer, that the defendant, and those through whom he claims, have used the water for their mills for twenty years. Their right to the water is also implied in, and goes with, the defendant's property, as appurtenant under the lease from the government, by its officers. This court, at all events, will not interfere in a case like the present without a trial at law being first had. This should have taken place long ago,—*Earl of Ripon v. Hobart*, (j) *Attorney-General v. Johnson*, (k) *Attorney-General v. Cleaver*, (l) *Birmingham Canal Company v. Lloyd*, (m) *Crowder v. Tinkler*. (n) This information has been filed, and the present application is made, far too long after the commission of the acts complained of, to entitle the Attorney-General to a special injunction now.

30th November.—The judgment of the court was delivered by

THE CHANCELLOR.—The information in this case was filed on the 22nd of October, 1847. It states that the broken front of lot No. 40, in the township of Nepean, was in the

(a) 17 Ves. 128.

(c) 5 Mad. 469.

(e) Dick. 670.

(g) 10 Ves. 289.

(i) 2 Ans. 603.

(k) 2 Wils. cb. 87.

(m) 18 Ves. 515.

(b) 6 Jurist, 1009.

(d) 8 Ves. 159.

(f) 2 Cox. 205.

(h) 1 M. & C. 516.

(j) Cooper Temp. Brougham, 383.

(l) 18 Ves. 210.

(n) 19 Ves. 617.

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