

1849. the record were correct in form, we feel that were our opinion even much more doubtful than it is, we should exercise a most unwise discretion in placing the funds of this company in court, upon this interlocutory motion.

Hamilton
v.
Desjardins
Canal Co.

Upon the other points of the case, we need not express an opinion; but we feel it right to say, that they seem to us to oppose serious obstacles to the plaintiffs' recovery in this suit.

Motion refused—Costs reserved.

THE ATTORNEY-GENERAL V. McLAUGHLIN.

Practice—Injunction—Rights of riparian proprietors.

Nov. 13 & 30. An averment that the soil of a stream is vested in the Crown does not import that the Crown has therefore any power to interfere with the rights of riparian proprietors.

There are many cases in which the court will interfere by injunction to maintain things in *statu quo*, *pendente lite*, not only where the title of the plaintiff to relief is unquestioned, but even where that title is doubtful; provided the court sees that there is a substantial question to be settled.

But the court does not interfere by special injunction against a party in possession claiming adversely to the plaintiff; nor, on the other hand, will the court, as a general rule, so interfere in favour of a party in possession, to restrain a casual trespass.

On an application on behalf of the Crown for a special injunction, it appeared that the acts and threats complained of occurred eight and eleven months before the filing of the bill, and the motion for the injunction was made twelve months after the answer came in. *Held*, that the application was too late.

The facts of the case, so far as respects the present motion, are set forth fully in the judgment of the court.

Mr. A. Wilson, and Mr. C. Cooper, for plaintiff.—The information alleges, and the answer admits, certain acts to have been done by the defendant in the months of October and November, 1846, and February, 1847, to the public works on that part of the Ottawa river called "the Chaudiere Slides," which the plaintiff asserts were injurious to the works.

The defendant attempts to justify his acts, because he says he has been refused remuneration by the Executive Council for damage which he alleges he has sustained by the construction of those works; and because the rubbish thrown by him into the channel of the river does not, as he says, do injury to the works, and because he has, as he asserts, a right to use the water of the river, without the interference, which he says, these works have created.

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