

give licence to enter upon the said lands &c. and the said A. Phelps did not cut the said trees as workman and servant of Christopher Idle, John Idle, George Idle, Thomas Coates and William Haynes—to the 2d. and 4th. pleas, that the King on the 2d. Oct. 1807 was not seized as owner and proprietor of or entitled to any oak timber trees on the said seigniories, and that the King, in the said last mentioned day, was not seized as owner and proprietor of the said seigniories, and that the King did not give licence as stated in these pleas—and the Appellant did not cut as workman &c.—The Appellant Napier Christie Burton adduced parole evidence for the purpose of proving the facts stated in his declaration, but did not produce, or file any written evidence to show a title in him to the land upon which the timber in question was cut.—The Respondent Alexander Phelps established by evidence the several facts mentioned in his pleas.

On the 16th October 1811, Christopher Idle, John Idle, George Idle, Thomas Coates and William Haynes, merchants, and copartners trading under the firm of Scott, Idles & Co., named in the King's licence mentioned in the said Plea of the said Alex. Phelps, filed a petition in Intervention in the said cause.

In this petition they urge the same grounds contained in the said plea, and conclude that the timber attached, and in question in the said cause, be delivered up to them for the purposes in the said licence mentioned.

To this petition in Intervention, the Respondent Napier Christie Burton, put on a plea by which he pleaded that the said Christopher Idle, John Idle, George Idle, Thomas Coates and William Haynes had no interest in the said cause, and denied the truth of the grounds contained in the said petition.

The cause was heard on the merits on the 11th February 1813, and on the 19th June following the Court below pronounced the following interlocutory Judgment.

“ It appearing to the Court, from the nature of the contest between the parties in this cause, that the right of the Crown may be eventually interested therein, it is ordered that at the deligence of the Defendant, a copy of the Declaration and pleadings in this Cause be communicated without delay to His Majesty's Attorney General in this Province, that he may intervene on behalf of the Crown, if he shall see fit on or about the first day of October next.”

On the 13th October 1814, an information in the nature of an Intervention was filed on the part of the Crown, in which the same grounds are urged against the Appellant's action, as those contained in the aforesaid plea of the said Alex. Phelps.

A plea to the Intervention of the Crown was filed by the Appellant, in which he alleges that the King has no interest in the said action, and denies the truth of the grounds contained in the said Intervention.

The parties afterwards were finally heard on the merits, and the Court below, after this hearing, on the 20th. of June 1815 pronounced the following Judgment.

“ The Court having heard the parties by their Counsel, examined the proceedings and evidence of Record and deliberated thereon; it is considered and adjudged that the said Defendant do restore and deliver up to the said Plaintiff, in the space of one month, the quantity of one hundred, and eighty five pine logs, two hundred and sixty logs or pieces of square pine timber, eighteen masts, and ten spars, which were by the said Defendant wrongfully cut down in and upon the Estates and Seigniories of the said Plaintiff, as mentioned in his Declaration, and which have been seized and attached by virtue of the writ of attachment or *Saisie Revendication* sued out in this cause, and in default of restoring and delivering up to the said Plaintiff the pine logs, square pine timber, masts and spars, it is further adjudged that the said Defendant do pay the value thereof to the said Plaintiff, according as the same shall be estimated by experts to be named by the Parties or on their default by the Court; and it is also adjudged that the Action and Demand aforesaid of the said Plaintiff, so far as the same regards the cutting down, and carrying away the several quantities of oak timber as mentioned in the said Declaration be dismissed, and that the said Plaintiff do recover his costs up to the filing of the Plea, the subsequent costs to be paid by the Plaintiff to the Defendant.”

From this Judgment the present Appeal has been instituted.—Reasons of Appeal have been filed by the Appellant, in which he alleges that plea of the said Respondent Alex. Phelps, and the Interventions filed in the said Court below were insufficient and unfounded in law, and that the said Judgment hath been rendered contrary to law.

To these reasons a General Answer has been filed, and in this state the Cause stands for hearing.

QUEBEC, Nov. 1816.