

Issue was joined upon these pleas.

In the mean time the Respondent obtained restitution of the property upon giving security for its appraised value.

Subsequently to the joining of issue upon the several pleas of William Lindsay, Mr. Ross obtained leave to file an intervention on the behalf of the Crown.

In this intervention it is alleged, "that on or about the 20th day of December, 1814, and long before and afterwards our Sovereign Lord the King was at open war with the Government of the United States of America, and being so at war, no subject of the King, an inhabitant of this Province of Lower-Canada, had a right to export any articles whereby the enemies of our said Lord the King could be assisted or receive succour. That flannels and every kind of woollens were prohibited and not allowed to be exported from this Province into the United States of America. That the said Plaintiff, in defiance of the common Law and contrary to the allegiance which he ought and was bound to bear to our said Sovereign Lord the King, did on or about the said 20th day of December, 1814, illegally, by circuitous roads and paths, convey and cause to be conveyed to the Southward and beyond the Port of St. John and towards the lines between this Province and the United States of America, the following described goods and chattels, wares and merchandize, to wit, twelve bales or packages of flannels, marked, &c. and numbered respectively, &c. and one bale of superfine cloths, marked, &c. and numbered, &c. with an intent to trade, export or convey the same unto the United States of America, and therewith and thereby aid and succour the Government and the people of the United States of America, then the open enemies of our said Lord the King, contrary to the Laws, statutes and regulations in this behalf made and provided. By reason of which premises the said last mentioned bales and packages were liable to be seized and forfeited. That on the day last aforesaid, at St. John in the District of Montreal, in the Province of Lower-Canada, the bales and packages above and in the Plaintiff's Declaration mentioned and described, were by the said William Lindsay, then and still being Collector of His Majesty's Customs, at the Port of St. John, in the said District, arrested, taken and seized *as good and lawful prize*. Because at the time of the arresting, taking and seizing thereof as aforesaid, the said bales and packages belonged to and were the property of persons unknown, subjects of our said Lord the King, who contrary to their allegiance were then and there adhering to and trading with the enemies of our said Lord the King, and were then and there employed in conveying and causing to be conveyed the said bales and packages out of or from the said Province of Lower-Canada into the said United States of America, for the purpose of trading with and succouring the enemies of our said Lord the King, to wit, the Government and people of the said United States of America; whereby the said bales and packages became and were forfeited *as good and lawful prize* to our said Lord the King, and the same have since continued and now are in the possession and custody of the said William Lindsay, as being such lawful prize as aforesaid, to be disposed of accordingly.

"The King's Counsel prays in consequence that the said bales and packages may, for the reasons aforesaid, be adjudged and declared such good and lawful prize and forfeited, and that the said goods, wares and merchandizes may be ordered to be delivered to our said Lord the