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NOVA SCOTIA.

SUPREME COURT AT SYDNEY.

MAY 7TH, 1909.

LAFFIN v. ELSWORTH.

Land—Deed—Action for Possession—Evidence of Possession.

W. F. Carroll, for plaintiff.

J. M. Cameron, for defendant.

LONGLEY, J.:—In July, 1867, Richard Elsworth of Barrachois or Lingan, C. B., gave a deed of a small piece of land, two acres, to Walter Young and Michael Laffin of the same place. The consideration was \$100, and the deed was immediately recorded. What was the object in buying this small area from Elsworth's large holding in no way appears from the evidence, nor is there any express evidence of Young and Laffin's entry into possession. Young has since died and his wife, Georgina, one of the plaintiffs, is his devisee. Michael Laffin died without will, and his several heirs constitute the other plaintiffs. They are bringing suit against defendants for the possession of this lot, which defendants admit they are withholding.

The only difficulty in the way is the doctrine laid down in *Cunard v. Irvine*, 2 N. S. R. 31, lack of specific acts of possession. All that I can do in this case is to marshal the evidence, mostly incidents, which may be sufficient to take the case out of the *Cunard v. Irvine* decision, affirmed later in *McLeod v. Delaney*, 29 N. S. R. 133. I apprehend that where a deed