

cally relieves the insurer from liability for the very loss which the previous part of the policy purports to insure against.

LICENCE TO CUT TIMBER—EFFECT OF LICENCE—TRESPASS ON LICENSEE'S LAND BEFORE LICENCE GRANTED—CON. STAT. NEWFOUNDLAND 2ND SERIES C. 13, s. 51—(R.S.O. c. 32, s. 3 (i.)).

Glenwood Lumber Co. v. Phillips (1904) A.C. 405, although an appeal from the Supreme Court of Newfoundland, may be found of use in Ontario. The action was brought by the plaintiff as the holder of a timber lease or licence from the Government of Newfoundland to recover damages for timber cut upon the land's covered by the licence or lease prior to the grant thereof to the plaintiff, but removed therefrom by the defendant subsequently to the grant. The defendant contended that the licence only conferred on the plaintiff a right to cut and carry away timber, but did not give the licensee any right of occupation or interest in the land itself, or in the timber previously cut, and that he had no right to timber cut prior to the grant of his licence. The Judicial Committee of the Privy Council (Lords Macnaghten, Davey and Lindley, and Sir A. Wilson) held that it was immaterial whether the licence were called a lease or licence, that its legal effect was to give the holder an exclusive right of occupation of the land, and under The Newfoundland Act, C.S.N. 3rd Series c. 13, s. 5 (which appears to be in similar terms to R.S.O. c. 32, s. 3), the licensee is empowered to sue for trespasses committed on the lands. At the trial the plaintiff recovered the value of the timber taken by defendant, and \$400 damages and costs, and the judgment was affirmed by the Supreme Court of Newfoundland. On the appeal the principal point argued was, that the logs having been cut before the date of the plaintiff's title, they did not vest in him and were not the plaintiff's property; but their lordships declined to adopt that view, holding that the plaintiff's licence gave him exclusive possession of the lands and of the logs then lying thereon, and it was an invasion of his rights for the defendants, who were mere wrong-doers, to enter and take the logs away, and the appeal was accordingly dismissed.

PRACTICE—SPECIAL LEAVE TO APPEAL—ABSTRACT POINT OF LAW.

In *The King v. Louw* (1904) A.C. 412, the Attorney-General of the Cape of Good Hope applied for leave to appeal in respect of a point of law incidentally discussed in the case. The respon-