

*Cross-examined* :—There were large trees. There were fir not spruce. At 15 feet long they would be 8 inches through, and would square 5 inches. There are a great many on yet. There might be 300 or 400 more on the lot. I won't swear I could get £25 for it all at auction ; with good title would rather keep it than sell for that. A great deal of hard wood on it.

Plaintiff rests.

Mr. McDonnell moves for non-suit.

1. No title.
2. No possession.
3. Possession proved insufficient.
4. No proof of authority of surveyor.

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J. A. McDonald claims to be entitled to a verdict on 2nd count.

1. Because plaintiff has a constructive possession of the whole lot, and trespass admitted to be within the boundaries.

2. On 1st count, on the ground that the lines fixed by the County Surveyor, ten years before trespass, gave sufficient possession to maintain trespass, as it amounted to a barren license from the Crown.

3. No plea denying property in the wood, under 1st or 2nd counts. The land 160 may belong to me and the wood to another, and the property alleged in 1st and 2nd counts in the wood should have been traversed, as was done in relation to the 3rd count.

4. That the possession proved is sufficient, as against a wrong-doer.

I direct a non-suit.