

NOVA SCOTIA.

SUPREME COURT.

TRIAL.

GRAHAM, E.J.

MAY 11TH, 1911.

DREW v. ARMSTRONG.

*Land—Trespass—Agreement for Sale of Standing Timber
—License to Enter and Cut—Extension by parol of
Period for Cutting—Reasonable Time—Interest in Land.*

Action claiming damages for trespass to land.

J. J. Ritchie, K.C., and J. M. Owen, for plaintiff.

W. E. Roscoe, K.C., and A. L. Davison, for defendant.

GRAHAM, E.J.:—This action was brought on the 24th January, 1911, and there was an interim restraining order granted the 31st January, 1911, which, on the 14th February, 1911, when the parties were heard, was varied so as to permit the defendant to haul away the logs already cut on the land of the late Solomon Drew.

This action charged the defendant with cutting down trees and timber about the months of October, November, and December, 1910; also since the 1st of January, 1911, and until the time of the injunction, with hauling to his mill a quantity of the timber and logs so cut.

The prayer is for a declaration that the agreement to which I shall refer presently, expired and became void on the 1st of January, 1909, and for an injunction and damages.

This agreement referred to was made between the plaintiff's father in his lifetime and the defendant. The former having died on the 27th December, 1909, the plaintiff became the successor in title. It is as follows:—

“Drawn in duplicate.

“This agreement made this first day of January in the year of Our Lord, on thousand nine hundred and three, between Solomon Drew of Nictaux Falls, in the county of Annapolis and province of Nova Scotia, of the first part, and Daniel Armstrong of Bloomington, county and province aforesaid of the other part, Witnesseth that the said Solomon Drew for and in consideration of the sum of two