

the 10,000 rejected 7,000 sold at a loss of \$6 a thousand, making a loss of \$42. The 3,000 remaining were worth about \$7 or \$8 a thousand instead of \$14. The loss on these would be about \$18. Of the lot of 36,000 sold to Rhodes, Currie & Co. 31,000 realized \$9.30 a thousand instead of \$14, making a loss of \$145.70. 800 feet were left on hand, of which 15 per cent. were spoiled, say 2,000, on which the loss was about \$6.50 a thousand, making a loss of \$78. The unspoiled lot not perfectly well sawed, 68,000 of this lot, are estimated to be worth less than they should be by \$2 a thousand, making a loss of \$136.

The computation of the damages for failure to complete the contract must be largely a guess. The evidence is not clear, but I think I am justified in estimating them at a minimum about of \$50.

For these sums, amounting to \$753.70, the plaintiff will have judgment and the counterclaim is dismissed.

Since the foregoing memorandum was written I have been favoured with memoranda from both parties, from which I observe that I have in some few instances allowed larger amounts than the plaintiff claims, and have disallowed some important items of his claim. As to the latter I think the evidence is too indefinite to warrant a larger finding. As to the former I think my notes taken at the trial warrant the amounts I have assessed.

NOVA SCOTIA.

SUPREME COURT.

CHAMBERS.

NOVEMBER 8TH, 1910.

GIRROIR v. M'FARLAND ET AL.

*Ejectment — Application to be put in Possession after
Adverse Judgment at Trial—Refusal—Practice.*

W. Chisholm, in support of application.

E. F. Gregory, K.C., contra.

Motion on behalf of Margaret A. Gallant to restore her to the possession of land from which she was removed by the sheriff under a writ of possession issued by order of the Court in an action of ejectment in which plaintiff recovered judgment against defendants, alleged to be in possession of land to which plaintiff was entitled.