

stance of the grantee from year to year notwithstanding the apparently absolute grant, and that in default of that being done, the title may revert to the Crown.

He has no more property in the pine trees, or charge of or over them, than if they were growing upon an adjacent lot under such legal conditions that he might by virtue of a covenant from the owner in fee simple in certain contingencies which might or might never happen, have a license to cut and use same for his use in developing his mining interest in the land granted for such purpose, but for no other purpose.

The trees having continued the property of the Crown, how can the grantee in any such case assert the right of property claimed here, when the trees have been cut and removed from the land?

The appellants as such grantees had neither a legal nor physical possession of the pine trees and hence no basis on which to rest a claim to the ties into which they were cut.

They were under no position of responsibility to the Crown to have them protected from the acts of others than themselves.

Their sole relation to the pine trees, or the Crown as owner of them, was that upon certain contingencies happening, if the Crown by its license had not in the meantime taken the trees, then they (the appellants) had a license to use them for specified purposes.

But when we find they had been removed from the land, cut into ties and are being delivered to the respondent company, how can it be possible by virtue of such a contingent license, to say the appellants had any property in the ties?

Their legal position may have entitled them to bring an action for damages against any one without colour of right so changing the condition of things that they could not enjoy that to which they had a legitimate and reasonable expectation of enjoyment, by virtue of their implied license when it had become operative.

Whatever the form of action it does not appear to me it could ever be trespass. Nor can it be trover. It has been said a bailor can call on a bailee recovering in trover for an account. What right would the Crown have to call on the appellants for the fruits of such an action? The bailor has that right *pro tanto* his interest in case the bailee makes recovery. But on what legal ground could the Crown here rest such a claim?