

the tenancy. It is only evidence from which the court or jury may find the fact. And circumstances may be shewn to repeal the implication.

*Held*, therefore, in this case where the landlord, before he accepted any rent after expiry, the lease expressly told the tenant that he would not consent to any tenancy from year to year, so as to require any notice of termination to be given, but that they should remain in the same position as they were on expiry of the lease, to which the tenant assented, the rent however to be the same as that reserved in the lease, and to be paid in like manner, —the parties were not tenants from year to year, but tenants at will.

*R. S. Robertson*, for plaintiff. *Maybee*, K.C., and *McPherson*, K.C., for defendant.

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Trial—Ferguson, J.]      BRIDGE *v.* JOHNSTON.      [Sept 9.

*Indian lands—Assignment of timber—Interest in land—Registration—Conditional assignment—Priorities—Actual notice.*

The owner of unpatented Indian lands administered by the Department of Indian Affairs for Canada, under the provisions of the Indian Act, R. S. C. c. 43, made a sale of certain timber thereon and executed an assignment or transfer to the vendee, by which the vendor agreed to sell and the vendee to purchase all the timber of a certain specified kind upon the land described, for a named price, payable as set out, and by which the vendee was "to have five years from the date hereof to cut and remove the said timber, having the right to make roads and go in and out of the said property during the said term."

*Held*, that the interest assigned was an interest in land, and not a mere chattel interest.

*Summers v. Cook*, 28 Gr. 179, and *Ford v. Hodgson*, 3 O. L. R. 526, followed.

*Held*, also, that the assignment was not an unconditional assignment within the meaning of s. 43 of the Indian Act, and was incapable of being registered in the manner prescribed by the Act, and therefore did not require registration to preserve its priority, and was entitled to priority over a subsequent registered assignment.

*Harrison v. Armour*, 11 Gr. 303, followed.

*Seem*, that, although there is no provision in the Indian Act as to "actual notice," the law laid down in *Agra Bank v. Barry*, L. R. 7 H. L. at pp. 157, 158, would apply if the subsequent assignee had at the time of registration such notice of the prior assignment.

*David Robertson*, for the plaintiff. *C. S. Cameron*, for the defendant.