

apparently made reasonable search in Ridgetown for them—but he has offered no evidence of any enquiry as to the present residence or existence of the solicitor's partner, and has not called him or the solicitor himself to say that all these papers were in fact left in Ridgetown. The learned trial Judge was in consequence right in his view that sufficient proof of the loss of the deeds was not given to admit secondary evidence of their contents. The plaintiff has thus failed to give proof of his documentary title, but the circumstances might well warrant a jury in a finding of lost grant.

Apart, however, from such a title he has shewn a title by possession which the defendants must displace. It is clear that from 1886 till at least 1907, no one for the estate of Wm. Wilson has been in possession or in receipt of rents or profits or obtained any acknowledgment of title. The plaintiff swears that in the spring of 1901, he rented the $2\frac{1}{8}$ acres for fishing purposes to one Orlo Lee, who agreed by way of rent to repair the ravine road, which yearly suffered from land slides, and to cut ice for the plaintiff and furnish him with fish. Lee admits having done all this, but denies having rented. The learned trial Judge, however, accepts the evidence of the plaintiff. Lee held for three years, and then sold out his fishing business to O'Brien & Kohler with whom the plaintiff says he made a similar arrangement. This O'Brien denies though admitting knowledge that the plaintiff claimed ownership, and having gone to him before taking possession, but the learned trial Judge prefers the plaintiff's account. Reading the evidence I would also come to the conclusion that they as well as Lee held under an arrangement with the plaintiff and as his tenants. The assessment in the years 1901 to 1906, accorded therewith. In January, 1907, Poulin wished O'Brien to sign a lease at \$50 per year and says that he promised to do so, and there is some corroboration as to it, but whether that be so or not, O'Brien did not sign, but having learned that in the Registry office the title stood in the name of William Wilson, he through a solicitor arranged by telephone with Mr. Matthew Wilson, the solicitor, who although the trustees were all dead took upon himself for the estate to rent the property to O'Brien at \$6 per year. On 9th March, 1907, Kohler sold his interest to the defendant Eberle. On 18th March a written demand of possession for the plaintiff was served on O'Brien & Kohler, and in May, 1907, this was followed by proceedings, under