got any ashes. Then the plaintiff's case failed as to his being legally in possession of the land. There was no evidence of a yearly holding. Johnson, who let the plaintiff on at first, had no authority to act for the owner; but, being in charge of the place to make a sale of it, he allowed the plaintiff, out of compassion, to gather ashes on it for one year at $5. When this was told to the owner, he objected, and said that the plaintiff must be ordered to leave. This was in the summer of 1910, and after the expiry of the year. The plaintiff, however, kept on till the end of September, and then paid rent for the extra few months, and took a receipt on the 28th September, expressed to be for rent up to the 30th September, 1910. Carnegie, by his act in receiving the money, validated that extent of holding, no doubt; but what was done was against his wish, and could not be carried beyond the very letter of what was done. There was nothing to go to the jury at the close of the plaintiff's case, and it certainly was not strengthened by the defence. Appeal dismissed with costs. G. H. Kilmer, K.C., for the plaintiff. O. E. Klein, for the defendant.

ALLEN v. GRAND VALLEY R. CO.

Ontario High Court, Cartwright, M.C. February 13, 1912.

DISCOVERY (§ IV—20)—*Examination of Foreign Defendant on Commission—Con. Rule 477—Payment of Conduct-money to Bring Defendant to Ontario.*]—Motion by the plaintiff for a commission to examine the defendant Verner at New York, for discovery. It was contended, for the defendant Verner, that the Master had power, under Con. Rule 477, to order that this examination should take place in Toronto, and that the plaintiff should pay the necessary conduct-money. The Master said that there was no authority for such an order. It did not seem reasonable that a party exercising his undoubted right should be required to advance money to save expense and inconvenience to the opposite party and his legal advisers. The Rule admitted only of such orders as were made in Lick v. Rivers, 1 O.L.R. 57; Lefurgey v. Great West Land Co., 11 O.L.R. 617; and Cox v. Prior, 18 P.R. 492. It was stated on the argument that the defendant Verner would sooner attend at Toronto in any case. If so, the Master said, the defendant must do so at his own expense meantime. If this was agreed to, the motion would be dismissed; costs in the cause. Otherwise, the order must go, on the usual terms. G. H. Sedgewick, for the plaintiff. Grayson Smith, for the defendant Verner.