

for thirty years and upwards, against the Seigneur. The first question, therefore, is one of fact: in whom has the possession of the land been for thirty years prior to 1855? If possession has been *de facto* in Goodwin and the Respondent, that possession is admitted to be an adverse possession. It appears that one Levy Petty was in possession of the lot in 1807, in which year Goodwin took possession of it; that a house was built upon it in Petty's time, which Goodwin at first occupied, but afterwards built a house for himself; that there was a pretty large clearing when Goodwin came; that Goodwin laboured and cropped the land, and was a married man living with his family; that Goodwin paid the bridge-tax for the lot, and that the whole of the lot was known as the Goodwin Lot. The possession of the whole by the Respondent from 1833 is still more clearly proved, and was, in fact, little, if at all, disputed. There is, however, a piece of evidence coming from the Seigneur himself, or his agents, which their Lordships look upon as still more conclusive of the fact of possession. It appears that in the year 1828 steps were taken, upon the death of Mr. George Ellice, the former Seigneur, to require from the persons then holding the lands an exhibition of the titles under which they held. A list is given of the persons then found in possession of the lots in Russeltown on whom circular notices from the agents of the Seigneur were served, and the name of David Goodwin is there entered as the person in possession of lot 16 of the third section; service being stated to have been made by delivery of the circular to his wife, and speaking to himself afterwards. His possession is treated as a possession of the whole lot, for a distinction is made in other cases where a lot is possessed in halves by different persons; and the proceedings in 1828 are upon the footing of the persons mentioned in the list having been in possession for some time. The result of these proceedings is, for this purpose, immaterial; but what has been stated is evidence of the most satisfactory description that the agents

of the Seigneur, in the year 1828, found Goodwin in possession of the whole lot, and this evidence, coupled with the testimony in the case, establishes, to the entire satisfaction of their Lordships, a possession by Goodwin and the Respondent of the whole lot for upwards of thirty years.

The other questions in the case are questions of law. Goodwin gave up possession to the Respondent in 1833; but it was contended that the document by which he made over his title was insufficient to connect the possession of Goodwin with that of the Respondent. First, because it was a document *sous seing privé*, and, therefore, without date as regards third parties; and, secondly, because it was not an instrument amounting to a conveyance and *translatif de propriété*.\* Both these objections were overruled by the Court of Queen's Bench, and, as their Lordships think, rightly: The first of the objections, viz., that the document is *sous seing privé*, was little argued by the Appellant; and their Lordships do not think it necessary to add anything to the reasons for disallowing it given by Mr. Justice Meredith. As to the objection that the paper is not a conveyance *translatif de propriété*, it would, their Lordships think, be somewhat remarkable if, where the real object is to show that an incoming occupier claims under and by way of direct continuation of the occupation of an outgoer, and where at the time there is no real title to be conveyed, an instrument adapted to pass a real title should be required. Their Lordships think, however, as did the Court below, that there is no foundation for this objection in any of the authorities which have been cited. The authorities speak of a predecessor and successor, of the successor claiming by contract or by will, and of a legitimate continuation of possession; and they are careful to negative as a suffi-

\* The document was in these terms: "Russeltown, Sept. 21st, 1833. This may certify that I do this day sell, convey, and give up all right, title, and claim that I have, or ever had, to the lot of land I know recede on to James Lamb, being lot No. seveneteneth in the third section. David Goodwin. James Richardson, Patrick Mahon, Witeness."