

by the permit, and to deliver them at the railway line where they were taken possession of by O'Brien, Fowler & McDougall.

The appellants' locations were all situated south of Vermillion river outside the area affected by the permit.

In the beginning of February, Miller and Dickson, in circumstances which it will be necessary to refer to more particularly when considering the responsibility of the Eastern Construction Co., began cutting timber south of Vermillion river from Crown lands as well as from the appellants' locations. On the 24th February, when nearly the whole of the timber cut in the course of these trespasses had been manufactured into ties and delivered, Mr. Margach, the Crown timber agent for the district of Rainy River, then on one of his tours of inspection with Inspector Smith, observed that Miller & Dickson were exceeding the limits of the Eastern Construction Co.'s permit, and ordered them to stop. A few days afterwards Mr. Margach notified Miller & Dickson that they might remove any timber that had been cut. When this permission was given, Mr. Margach was aware of the fact that Miller & Dickson had been cutting on the mineral locations in question, and the permission was intended to apply, and was understood to apply to the Crown timber cut there.

On the 26th February, Mr. Margach reported Miller & Dickson's trespasses to the Department of Crown Lands, informing the department at the same time that the area trespassed upon included the appellants' locations. On the 6th March he formally notified the Eastern Construction Co. that Miller & Dickson had been trespassing south and east of Vermillion river, that he had ordered them to stop trespassing but had authorised them to remove what they had cut and to make a separate return of it.

Some time in April or May, Mr. Alexander McDougall, the managing director of the Eastern Construction Co., interviewed the Commissioner and Deputy Commissioner of Crown Lands, on the subject of the dues to be charged in respect of the government timber affected by these trespasses. According to the Government regulations, the Government is entitled to charge double dues for timber cut in trespass. In September, Inspector Smith, of the department, was directed by the Crown timber agent to make an examination and return of the extent of Miller & Dickson's trespasses, including the trespasses on the mineral locations.