up the creek, etc. The plaintiffs asked for an injunction, for a declaration that they were the owners of the land, for damages, and for a mandatory order compelling the removal of material dumped over the brow of the hill. Upon the evidence, the learned Judge is not able to find that the plaintiffs have made out a paper title to the land called "the gorge," but he finds that they were in possession at the time of the granting of the lease to the defendants; and holds that this possession, in the absence of proof of title by the defendants, is sufficient to entitle the plaintiffs to maintain trespass. He finds that the plaintiffs have not suffered any damage from the fouling of the water; but he says that, upon the weight of evidence, there is danger of the stream being filled up by the refuse dumped by the defendants and the course of the stream being disturbed. Judgment for the plaintiffs for an injunction and $200 damages with costs on the High Court scale. If the plaintiffs desire a reference as to damages, instead of accepting $200, they may have it, at their own risk as to costs. G. Lynch-Staunton, K.C., and G. C. Campbell, for the plaintiffs. E. D. Armour, K.C., and T. G. Haslett, for the defendants.

HULL v. ALLEN—MASTER IN CHAMBERS.—NOV. 15.

Evidence — Cross-examination of Plaintiff on Affidavit — Place for Examination—Convenience—Con. Rules 444, 491, 492.] —Motion by the defendant for an order requiring the plaintiff to attend for cross-examination upon an affidavit at Toronto, instead of Woodstock, the county town of the county in which the plaintiff lived. The Master said that the decision in Dryden v. Smith, 17 P. R. 500, was a conclusive answer to the motion, unless a case was made out for the application of Con. Rule 444, assuming that it could be applied, in a proper case, to vary Con. Rule 491—as would seem to be the effect of Con. Rule 492. The plaintiff was at first willing to attend at Toronto, and did attend on the 20th October, but no examination took place on that day, and he now declines to attend again, saying that he is eighty years of age, that his wife is also very old and requires his constant attendance, and that his solicitor at Woodstock has charge of the case for him. He further says that he never agreed to attend at Toronto, although he did attend (fruitlessly) in order to expedite the case. These seemed to be sufficient grounds, and were not displaced by anything urged by the defendant. Motion dismissed; costs in the cause. J. T. Small, K.C., for the defendant. T. H. Wilson, for the plaintiff.