In his evidence the plaintiff said:—

"Q. You believe the $10 had been paid? A. Yes.

"Q. For an extension? A. Yes, for an extension.

"Q. And you are only relying on the fact that the extension was not given in writing? A. Yes."

After the death of Solomon Drew the defendant no doubt realising that he had nothing to shew for his $10 addressed a letter to the plaintiff and there was a correspondence. The plaintiff having been informed by his mother of the receipt of the $10 on account of an extension, did not in that correspondence question the extension over the year 1910, but plainly assents to it. In the letter of 26th January, 1910, he says:—

"Even now in justice to the estate I do not think you ought to cut down to the limit mentioned in the agreement, and if we do as you desire, give you two years more, it would seem that everything would be stripped clean, and the property would be valueless, at least for a generation. If it is impossible for you to remove the timber this year, it is possible that some arrangement could be made by which a portion of the purchase-money could be refunded to you, as I understand you had one winter's work on the property."

And subsequently he made the defendant an offer of a sum of money on that basis.

What he wished to do was to prevent an extension beyond 1910, and down to the time of the bringing of the action I cannot find that the plaintiff or his mother or sister did anything else than recognise the existence of the sale and the extension over 1910, of the period for the removal of the timber. But nothing can be drawn from them as to the period beyond, although Mrs. Drew must have been told about it by her husband. The defendant, when the season for cutting came, namely October, 1910, commenced logging the land and the plaintiff knew of it and never objected. Of course, there was expenditure on the part of the defendant in cutting down the trees, constructing roads, &c. The fact that the plaintiff knew that the defendant was cutting and hauling the timber is proved very conclusively. I may say that the letters between the plaintiff and his mother and sister, who were near the land are destroyed. Mrs. Drew says: "We all considered that Mr. Armstrong had a right to cut and remove the logs in 1910. . . I wrote to my son that Mr. Armstrong was cutting logs on the lot somewhere along in November last."