

ing to the acreage given in the patent and deeds; and perhaps more than one-quarter of Pamment's land. I find no pretence of right in these defendants to do that which they did in defiance of the land-owner.

And all this is entirely in accord with the field notes and plan of the original survey, which shew plainly on inlet extending only a short way up from the river into Whittington's farm. I hold that the plaintiff has proved title to his land; and if that were not so, I should hold that way, he had such possession of it that, as against trespassers, such as these defendants were, he has these rights of action.

There will be judgment for the plaintiff in the case of Mathers and \$22.75 damages with costs of action upon the Supreme Court scale without set off; and in the other case a similar judgment and damages \$45.50.

I think it is extremely regrettable that the title of the plaintiff and of Whittington to their farms was raised in these cases; that these defendants should be obliged to pay heavy costs for having come into the Supreme Court on such an issue. In each case the whole title of the plaintiff to all parts of his farm is denied. The cases are, I think, such as should have been tried—if tried at all—in an inferior Court.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS and FERGUSON, JJ.A.

F. D. Kerr, for the appellant.

F. M. Field, K.C., for the plaintiff, respondent.

At the conclusion of the argument, Meredith, C.J.O., said:—

Mr. Kerr has very fully argued the main question in this case; which is as to the effect of a grant of Crown land in respect to which the dispute has arisen.

The Crown granted the whole of broken lot 18. There follows a description by metes and bounds which it is said does not include the area within an inlet. The patent also grants the waters on the land which are mentioned in it.

It is quite clear that if lot 18 contains more than the land that is defined by metes and bounds, the description by metes and bounds is to be rejected as *falsa demonstratio*. It is clear we think that lot 18 does contain more than is included within the metes and bounds mentioned in the patent.

In order to ascertain what the lot described in a Government survey is, you are to look to the field notes and also to the plan in the Crown Lands Department, which the Crown Lands Department has adopted, and in this case this shews that the inlet is part of lot No. 18; the field notes shew that by the work on the ground the inlet is part of lot 18; so that it is beyond question that the inlet is part of lot 18.