

2. The fact that the paper suspended publication about the time that the list was said to have been surrendered had no bearing as furnishing the element of corroboration required.

*Quare*, whether the judge had power to permit the amendment allowed by him to be made.

*Mellish*, K.C., and *Kaulbach*, for appellant. *O'Connor*, K.C., and *Matheson*, K.C., for respondent.

Full Court.]

CARR v. FERGUSON.

[Dec. 15, 1910.]

*Crown lands—Temporary acts of occupation—Municipal council—Laying out new road—Irregularities—Waiver—Commissioner—Jurisdiction—Obstructions—Right to remove.*

To give title or possessory rights as against the Crown the proof should be clear and unequivocal.

The occupation and use of land on the seashore where the acts of occupation (apart from the erection of small structures not of a permanent character) are shewn to have been of a casual, temporary and irregular character, in the absence of enclosure or anything to indicate the extent of possession, are not sufficient to give title as against the Crown.

The occasional use of a strip of beach and land adjacent thereto, the property of the Crown, for the purpose of drying nets, etc., will be regarded as having occurred in the exercise of public right and will not confer any special right or interest in the locus. Such acts are not sufficient to enable the persons exercising them to maintain trespass against a person in possession claiming under colour of title.

Where a municipal council is seized with jurisdiction to deal with the subject of opening up a new road mere irregularities in the procedure cannot be relied on by way of collateral attack. The task of locating the new road belongs in the first place exclusively to the commissioner.

Objections to the project as a whole, or as to the location or payment of damages, etc., may be urged when the council is asked to confirm or adopt the proceedings and where such objections are not then urged they cannot be afterwards raised as ground for invalidating the prior proceedings. The municipal authorities having entered, or being entitled to enter, have the right, especially after notice, to remove obstructions from the way.

*Rowlings*, for appeal. *Gregory*, K.C., contra.