

recently purchased it for \$1,500 from those claiming title under Andrew Ross.

About eighteen years ago the defendant, John R. Goodchild, a fisherman, made some arrangement with Mr. Ross, pursuant to which he entered upon the land. He alleges that he received a letter from Mr. Ross, which he kept until recently, and that it made over the island to him absolutely. It is suggested by the plaintiff that this letter was merely an authority to the defendant to occupy the land free of rent, he to act as a caretaker, preventing the removal of gravel or injury by trespassers. This suggestion commends itself to me as being extremely probable, notwithstanding the oath of the defendant and his son; but the onus is upon the plaintiff to establish such an arrangement. Mr. Ross is dead, and no one else can speak of the contents of the letter.

If the defendants' case depended upon their own evidence I would be against them. As it is, they have held possession of the island for eighteen years, practically during the entire summer season, going there early in the spring and returning to the mainland late in the fall. They have used the island as a fishing station, occupying a small house that was upon it when they first went there, until its destruction by fire, when it was replaced by another house, erected by them. Trespassers have been excluded, and in every way the defendants have acted for these many years in precisely the same way that an owner would have acted.

It is said that possessory title has not been acquired because the property was left unoccupied during the winter season. To this the answer is made that the recent decision in *Piper v. Stevenson*, 28 O. L. R. 379, has modified the law laid down in the earlier cases and must be taken as establishing the proposition that the open, obvious, exclusive and continuous possession of property necessary to bring the case within the statute is not destroyed simply because during the winter season the person acquiring title ceases to occupy the land. The possession during the winter of this island was precisely the possession that there would have been by the actual owner. Such personal belongings as it was not desired to remove were left upon the island. The house was closed, and left ready for occupation in the following spring. Reluctantly I am compelled to accept this view. The pedal possession required under some of the