

issue of ouster as to the remainder of the lot. Leave was reserved to the defendants to move to enter the verdict for them on the whole case; and for the plaintiff to move to enter a verdict for them on the issue of ouster as to the whole or part.

Weldon, Q.C., for the defendants, moved the full court to enter a verdict for the defendants on the issue of title, contending that in point of law an unreasonable time had elapsed before Fraser repudiated the first deed; that the question of unreasonableness is for the court and not for the jury; that it was misdirection in the learned Judge to leave the second question to them, and that he should have directed a verdict for the defendants.

Pugsley, Q.C., and *Montgomery* for plaintiffs, contended that infants' contracts are void and voidable, and that as this deed is against the grantors' interest, it is void. They also contended that the plaintiff was not called upon to prove ouster where that had not been denied by the defendant, and therefore moved that a verdict for the plaintiff be entered on the issue of ouster also.

The following authorities were cited: *Doe dem. Foster v. Lee*, 2 Han. 486; *Doe dem. Seely v. Charlton*, 21 N.B. 119, 120 (1892); *Carter v. Silber*, 2 Ch. 289; *Zouch v. Parsons*, 3 Burr. 1794, 1804; *Doe dem. Duffin v. Simpson*, 3 Ken. 194; *Dyer v. Dyer*, 2 Cox 92; *Finch v. Finch*, 15 Ves. 43; *Stock v. McAvoy*, L. R., 15 Eq. 55; *Collinson v. Collinson*, 3 DeG., M. & G. 409; *Foley v. Canada Permanent Loan & Savings Co.*, 4 O. R. 38; *Perkins on Conveyancing*, 15 ed., sec. 12; ——— *v. Handcock*, 17 Ves. 383; *Allen v. Allen*, 2 D. & R. 338; *Mills v. Davis*, 9 C. P. 510; *Featherston v. McDonell*, 15 C. P. 162; *McCoppin v. McGuire*, 34 U.C.R. 157; *Drake v. Ramsay*, 5 Ohio 252; *Wallace v. Lewis*, 4 Har. (Del.) 75; *Irving v. Irving*, 9 Wall. 617, 627; *Lumsden's Case*, 4 Ch. App. 31; *Carter v. Silber*, 2 Ch. Div. 278.

Held, (overruling *Foster v. Lee*, and *Seely v. Charlton*, cited *supra*) that Fraser did not repudiate within a reasonable time after the coming of age, and that the deed from Fraser to Winchester is good.

Held, also (TUCK, J., dissenting), that plaintiffs should have proved ouster as to the residue of the lot.

On this latter point, sec. 66 of the Ejectment Act (57 Vict., c. 10) was cited.

Province of Manitoba.

QUEEN'S BENCH.

TAYLOR, C.J.]

[March 2.

MCLEAN v. REEKIE.

Negligence—Fire, damages for setting out.

This is a case in many respects similar to the case of *Booth v. Moffatt*, noted ante p. 41, the decision in which has since been affirmed by the Full Court, and it would hardly be necessary to make a special note of it here, except that the subject is one of extensive application and very great interest throughout Manitoba and the North-West, and it is well to emphasize the