

view appears to me necessarily to imply that, by a contract to which he was not a party, under which he derived no benefit—the reduction in fare benefiting only the consignee—and of the terms of which he had neither notice nor knowledge, his right to be carried without negligence on the part of the defendants was extinguished, and they were empowered, without incurring civil liability, to maim and almost kill him while he was lawfully upon their train. If such can possibly be the effect of the special contract, a higher Court must so decide.

I direct that judgment be entered for the plaintiff for \$3,000 and costs.

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FOX v. ROSS—MULOCK, C.J.Ex.D.—MAY 31ST, 1912.

*Title to Land—Patents from Crown—Description—Plans—Evidence—Title by Possession—Limitations Act—Act of Ownership—Cultivation and Cropping.*—The plaintiff claimed to be the owner in possession of the westerly part of Cotter's Island (or Bernhardt's Island) in the Bay of Quinté, in the county of Prince Edward, and complained that the defendant had trespassed and threatened to continue to trespass thereon, and asked for an injunction and damages. The plaintiff contended that the land in dispute was included in grants from the Crown to James Cotter, Wait Ross, and R. B. Conger in 1808, 1833, 1834, and 1845. The learned Chief Justice, after stating the description in the patents, and referring to plans and other evidence, stated his conclusion that the land in dispute was not covered by the patents referred to, and that the plaintiff had no paper title thereto.—The plaintiff also asserted title by possession. The evidence shewed that from 1834 until 1911 the plaintiff, by himself and others of whose possession he was entitled to the benefit, had each season cultivated the land in dispute. No one ever resided upon it, and no buildings were ever erected upon it. There was some vague evidence as to fencing; but the only fence of which there was any proof was one running northerly across the island to the north side, intended to prevent persons who used the east part of the island from trespassing on the west part. The user of the land was limited to cultivating and cropping during the summer season. For at least one half of each year no one was in possession. The learned Chief Justice said that during the winter seasons throughout the whole period there was at most only constructive possession, not "actual, exclusive, continuous, open or visible