

Shepherd handed the release to the plaintiff to read, and also read it over to him, and asked him, "Do you understand it?" The answer was: "Yes; I guess it is all up with me now." Shepherd, the claims agent: "I read it to him, and he read it over and signed it. He recognised me. I told him we would not recognise any liability, but were willing to help him out financially. He said, 'Is that the best you can do for me?' And I said 'Yes.' He read the release, and handed it back to me, and I read it over to him, and asked him if he fully understood it. He answered: 'Yes, I understand; it is all up with me' (meaning that that was all he expected to get)." Miss Stella Benton, a remarkably alert and intelligent witness, was the nurse in charge of the plaintiff: during the last two or three weeks "the condition of his mind was all right."

It is not possible for me, upon this evidence, to find that the release was obtained by fraud and undue influence. I find, on the contrary, that the plaintiff fully understood what he was doing, and did accept the sum of \$40 in full settlement of the cause of action.

I have consulted the following cases: *Doyle v. Diamond Flint Glass Co.* (1904), 8 O.L.R. 499; the same case in appeal (1905), 10 O.L.R. 567; *Clough v. London and North Western R.W. Co.* (1871), L.R. 7 Ex. 27; *Johnson v. Grand Trunk R.W. Co.* (1894), 21 A.R. 408; *Disher v. Clarris* (1894), 25 O.R. 493; and finally *Gissing v. T. Eaton Co.* (1911), 25 O.L.R. 50, which is the last word on the subject.

The action will be dismissed, with costs, if exacted.

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LENNOX, J., IN CHAMBERS.

DECEMBER 13TH, 1913.

### REX v. DAVEY.

*Criminal Law—Magistrate's Conviction—Motion to Quash—Evidence — Magistrate's Return—Conclusiveness—Supplemental Statement—Inadmissibility—Judicature Act, 3 & 4 Geo. V. ch. 19, sec. 63.*

Motion by Ezra E. Davey, the defendant, for an order quashing his conviction by the Police Magistrate for the Town of Amherstburg, for the offence of being found upon enclosed lands of another with a sporting implement, after notice not to hunt or shoot thereon.