S. C. Smoke and Grayson Smith, for plaintiffs.

W. S. Brewster, K.C., and A. E. Watts, Brantford, for the defendants.

LOUNT, J.—The contention is occasioned by a change in the channel of the Grand River from the old to the new channel. . . . It was conceded that the plaintiffs' property, which is on the north side of the river, had, when patented, for its southern boundary, the northern boundary of the river as it ran through the old channel, from which was reserved by the patent an allowance, for a tow path or road, one chain in width along the bank, and full access to the shore for all vessels, boats, and persons; and, likewise, that the northern boundary of defendants' land as patented was the southern boundary of the river as it then ran through the old channel. . . . Many witnesses were examined on both sides. . . . I find that the portion of the disputed property lying immediately south of the old channel . . . up to 1874, formed part of the property now claimed by defendants. In that year, or possibly 1875, a heavy freshet of water and ice came down the river cutting a new channel, which, after 8 or 10 years, by successive freshets, became as it now is formed. . . . The intervening land reappears every year. . . . The old channel has been only partly filled up. . . . The change of channels has not been due to the gradual eating away of the south bank of the old channel by the current. . . . The plaintiffs have not established any title by accretion to the land in dispute, and the doctrine of accretion does not apply, nor has reliction been shewn, for there has been no recession of waters from the plaintiffs' land; they reappear as soon as the spring freshets pass away. An island suddenly formed, as here, remains the property of the original owner. . . . The plaintiffs had, at the date of expropriation, as riparian proprietors, a title to the middle thread of the old channel, which is not completely closed up. . . . The reservation of a chain for a tow path, being an easement, does not take from plaintiffs their right in the soil to the middle thread of the old channel: Kains v. Turville, 32 U. C. R. 22. . . . The plaintiffs have not shewn "an actual, constant, and visible occupation to the exclusion of the true owners for 10 years:" McConaghy v. Denmark, 4 S. C. R. 632: see also Harris v. Mudie, 7 A. R. 414; Griffith v. Brown, 5 A. R. 303. Cropping the land during the summer is only a new act of trespass: Coffin v. North American Land Co., 21 O. R. 87: and does not make against the owner's constructive possession: Handley v. Archibald, 30 S. C. R. 130. . . . I find for defendants on all grounds,