To the *third* Plea.—That the vendor sold the land at a specified price per acre, and that the only obligation resting on him was to ascertain, by survey, the number of superficial acres, which was in fact done; that the Defendant entered upon and still possessed the whole tract, and that the formalities required by law for cases of surveys and for the regularity of *Procès Verbaux*, as between contestant parties, and parties at variance, as to boundaries, do not apply to the stipulations in the Deed of Sale, and the Defendant could not obtain his conclusions by reason of the pretended nullities in the *Procès Verbaux*, nor continue to occupy and possess the land without paying for it.

To the *fourth* Plea.—That the Defendant had been put in possession by the vendor of the whole tract, and had continued to occupy it and still does so, and had never been troubled in the possession and enjoyment thereof, and that contriving to evade payment of the *prix de vente*, he, the Defendant, had voluntarily acquired, under the Deeds set up, a tract of land in *fourth* concession, of which he pretended the 75½ acres to be part, and could not thereby oblige the Plaintiff to discuss the validity of the title of George Bradford, senior, or to warrant the Defendant against the pretended titles set up in his Plea.

A further answer was also fyled to the *fourth* Plea, setting up title to the lots in question, derived, first, by Letters Patent from the Crown, 13th July, 1799, to Louis Panet; second, by Deed from Panet, the Patentee, to the Rev. Richard Bradford, of 2nd February, 1808, Gray and Colleague, N. P.; third, by Deed to George Bradford, senior, from Richard Bradford and others, of the 17th December, 1832, Bondy and Colleague, N. P.; setting up also prescription of 30 years, &c.

The *fourth* Plea was not supported by any evidence as to possession, and was moreover abandoned at the argument so that it is unnecessary to do more than refer to it.

The Plaintiff examined three witnesses, namely, the Surveyors, MacDonald and Sinclair, and George N. Allbright, also a Land Surveyor.

MacDonald verified the survey of Sinclair, on the 8th February, 1853, previous to the institution of the Action. He produces a plan or sketch of the lots in question (No. 28 of Record) and states that his *procès verbal* (24½ of Record) is correct, and that the part colored red on the sketch is the land referred to in his *procès verbal*. He makes the superficial contents of the portion of the lots sold 126 acres, 1 rood and 34 perches.

Sinclair swears to the correctness of his *procès verbal*; that the Defendant was in possession of the lots in December, 1848, and also that at the date of his *procès verbal*, (No. 6 of Record), 1st October, 1852, was in possession of the lots as described in his *procès verbal*, and as mentioned therein; that the Defendant acquiesced in, and was present at the survey, and also that witness' *procès verbal* is in accordance with the description given in the *Defendant's* Exhibit No. 1, being the Deed of Sale to Defendant, with a copy of the after *acte* on the margin; the line going at right angles with the side line of the Township; and that the chain bearer was sworn for the purposes of the survey.

Allbright was present at survey; proves that Defendant was also present, and lived on the lot; and identifies the lots as being those mentioned in the Letters Patent of Deeds of Sale (Nos. 19, 20 and 21 of Record) referred to in the special answer to the Defendant's fourth Plea.

Two witnesses, Cushing and Centre were examined for Defendant.

Cushing was brought up with a view to prove the position of the line between the 4th and 5th concessions, and whether it ran through the Henderson lands; but the objection to *parole* evidence as to this point was maintained at Enquête, and no motion was made to revise the ruling.

Centre says he saw a post pointed out 12 or 14 years since by Charles Bradford, as marking the line between the 4th and 5th ranges of Chatham, and also saw a post pointed out in June, previous to his examination, by James Bothwell, as being on the line between the 3rd and 5th ranges of Chatham. He knows nothing personally of the matters at issue.

The Defendant contended at the argument that the Plaintiff's Action must be dismissed.

First.—Because the after *acte*, varying the boundary of the land was not set up in the Declaration. It will be seen that by the original Deed, the lands are bounded "in rear by John Earl;" by the after acte they are said to be bounded "in rear by a line at right angles "dividing the said tract from the land of John Earl, on number *one*."

This correction pointed out that the part of lot two, sold to Defendant, was not bounded in rear by Earl's lands, and indicated that the dividing line in rear of No. 1, was a line at right angles from the side line of the lot, being the Seigniory line. This, in fact, was the line surveyed, and it was sufficient to answer and prove that the superficial contents mentioned in the Declaration, were ascertained by the line at right angles from the side line. Besides, there is no allegation made, nor was it even pretended in argument, that there had ever been any dispute or difficulty as to the *rear* boundary as settled by the after *acte*, or that any fault had been found with the boundary at right angles from the side line as established.