

13. That, sometime after the rendering of the said judgment, the said John Prince apprised Your Excellency's Memorialists that it was adverse to them, and they, after having for several months thereafter, endeavoured in vain to get some satisfactory explanation from the said John Prince, as to the grounds upon which the said judgment had been so rendered, retained the above named John Stuart, then a practising lawyer, to look after their interests in the said island. That the said John Stuart, shortly after his having been so retained, and before the publishing of the report of the case in the usual way, procured from the reporter of the Court, and sent to your Memorialists for their information, a written copy of the report of the said judgment; that the said copy of report afforded your Memorialists the first intimation which any of them had received of the fact—of the existence of the registry of the said Lease, and their holding under it—not having been brought under the notice of the Court, in connection with the said case, and that the said John Prince had relied, in his defence, solely upon the bare possession of upwards of sixty years; that the said John Stuart, when he so sent them the said report, apprised them that the time had passed, before he had been so retained, to make an attempt to set aside the said judgment, on the ground of the case having been defectively presented to the Court, if indeed any such attempt could have been made, at any time, with any chance of success, the said judgment having been given on a special case of facts agreed to by their own counsel.

That, when the said special case was so agreed upon, the said John Prince was well aware of the several facts following: 1st. That the said Lease had existed; 2nd. That it had been registered in the manner which was the lawful, and only possible, one at that early day; 3rd. That evidence of the said registry existed in his immediate neighbourhood at the time of the stating of the said case; and, 4th. That Your Excellency's Memorialists claimed the said Island under a peaceable and undisputed possession, held under the said Lease, for a period of seventy-two years, with the knowledge of the Government, and not by any means, as "squatters," under a possession taken, in the first instance, by a mere intruder "not asserting title."

14. That Your Memorialists, after having been so furnished with the report of the said case, called the attention of the said John Stuart to the said important defect in the stating of the said special case, and the existence, somewhere in the township of Sandwich, of the said Notarial Registry Book, containing the Registry of the said Lease, whereupon the said John Stuart advised the immediate tracing up and securing of the said book, which was accordingly done, and the same was placed in his hands.

15. That the said Thomas McKee, and those deriving their title under him, have enjoyed peaceable and uninterrupted possession of the said island, unquestioned by the said lessors and their successors, and without complaint of the said Lease having been unduly obtained, from the said 1st day of May, 1788, to the present time—a period of upwards of three quarters of a century—as will appear upon reference to the said affidavit of the said Michael Fox, hereinbefore referred to, as also the accompanying affidavits of William Elliott, William Duff and Robert Rynolds, Esquires, and of Madelaine Askin, who was the wife of the late John Askin, Esquire, (all of whom were amongst the most aged and respectable people of that part of the country,) and of Frederick Fisher, an intelligent Indian, and a man famed for his integrity and probity, which said five affidavits, last mentioned, are marked respectively, "H," "I," "K," "L," and "M."

16. That the occupation of the said island, by the McKees and McCormicks, has been, from the beginning, with the full knowledge of the Government, as may be shown by the following, amongst other facts, viz:

1st. The said Thomas McKee was himself deputy agent of Indian Affairs, and gave notice to the Government of his having obtained the said Lease.

2nd. In the year 1812, the Government purchased from the said Thomas McKee, cedar and other timber, on the said island, for the purposes of the fortifications at Fort Malden.

3rd. In the year 1833, when it was determined to erect the Light House on the said Island, permission to do so, as well as the necessary site for the purpose, was first asked for and obtained, from the said William McCormick, deceased, then in possession, by the said William Elliott, who was the senior of the Commissioners appointed to superintend the erection of the said Light House, and who, having been aware ever since the year 1802, (when he first came to the country,) of the precise nature of the McKee-McCormick title to the said island, and, being himself a lawyer, considered such permission necessary preparatory to breaking ground, (all of which will appear by the said affidavit of the said William Elliott, hereinbefore referred to); and,