PATTERSON, J. A.—I do not think that the evidence in this case has left any serious doubt in my mind as to the facts. The paper title of the plaintiff to this piece of land in dispute is I think made out. I think that taking the evidence and the terms of the description contained in the patent it would cover this piece of land. Taking what I am told is the effect of the statute of 1837 (7 Wm. IV. c. 58), taking these lines to be governed by the lines across the river, it would tell more strongly against the defendant. But I do not think that the question can turn just now upon the paper title. I have no doubt that the whole question is under the statute of limitations; and I do not think that the facts under the statute of limitations are involved in any difficulty. The question is as to the effect of the statute under the facts that are shewn. I understand these facts to be, that some forty years ago, a question having arisen between the ancestors of the plaintiff and the defendants,—occasioned, I suppose by the survey of Rankin, which is spoken of as the commissioners' survey, or perhaps occasioned by that statute which was passed in 1837—but, however occasioned, the question having arisen, a survey by Samuel Smith was made, with some reference to the dispute. I do not think it appears that that was an agreed survey between the parties, or that there was any distinct agreement between them that the line which Smith was to run was in any way to settle their rights. As far as the evidence shows, the survey of Smith I take to have been a survey prepared by Shaw, the ancestor of the defendants. I have no doubt, however, that it was a survey of which Steers, the ancestor of the plaintiff, was perfectly well aware; in fact, the evidence which is given of the fencing and recognition of the line, as far as that shows recognition of it, perfectly establishes that fact. It is only necessary to speak of that portion of the line in this one concession or range—this particular part of it south from the walnut tree to the concession road next to it, whatever it is called, being very clearly out of dispute now by reason of the statute. Taking the line running from that concession north to that fourth concession or range, I think it is very clearly established, as to the portion cultivated, 38 or 39 chains back, that there has been not only an actual occupation of it by the defendants and their ancestor, but that kind of acquiescence in that particular occupation on the part of the ancestor of the plaintiff which is shown by his using this lane which ran up alongside of it; fencing, as I understand, at his side of the lane, and in no way interfering with their occupation. It appears further that at a period a good deal more than twenty years ago—I do not know exactly how long—the plaintiff's ancestor fenced that portion in the fourth concession. That is spoken of as an old fence, and it is a fence upon that line, if Smith ran the line back so far, as I suppose he did,—corresponding with the line, at all events. Then there is the evidence that at a recent period, and within ten years, the plaintiff fenced a portion of this intermediate tract, for the purpose of protecting his pasture on the west. That, as I say, is within the statutory period. There is the very distinct evidence given in his own examination that there has been no interference with the defendants or with their acts of ownership, whatever those acts have consisted of, during this period; and no