

## [QUEEN'S BENCH DIVISION.]

## STEERS V. SHAW ET AL.

*Boundary line—Wild land—Constructive possession—Statute of Limitations.*

Thirty or forty years before action, a blazed line had been run between the lots of plaintiff and defendant, by S., a surveyor, along part of which a fence had been erected. The parties respectively cut timber and exercised acts of ownership on the lands on each side of and up to the blazed line. The plaintiff swore that although he and his father had been governed by this line, and never claimed or went beyond it, it was always their intention to dispute it when they should be able to establish the true line. The learned Judge at the trial found that there was sufficient evidence of defendant's occupation of the land up to the blazed line to extinguish the plaintiff's title. *Held*, ARMOUR, J., dissenting, that the verdict was right  
Title by possession to wild land can be made out otherwise than by actual enclosure.

TRESPASS to the south-west part of lot 22 in the 1st, 2nd and 3rd ranges of the township of Chatham.

Pleas 1. Not guilty. 2. That a portion of the land (setting it out by metes and bounds,) was the defendants' land.  
Issue.

The cause was tried at the last Chatham Spring Assizes, before Patterson, J. A., without a jury.

It appeared that the plaintiff and defendants owned certain parts of lot 22. Thirty or forty years ago a line was run between their portions by one Smith, marked by blazes in the usual way, and down to a very recent period this was treated by both parties as their dividing line.

Fences had been erected along a considerable portion of this line by the action of both parties, and had been maintained by them. The portions so fenced extended more than half way through the lot, and a clear title to such portions seemed to be fully established within the Statute of Limitations.

A portion, however, north of the fenced part, consisted of bush land, and had not been actually fenced in over the statutable period.

A great deal of evidence was given, and the following judgment delivered by the learned Judge, from which the facts will more fully appear.