serted in the Registry Office, and to the knowledge of the grantor, who allowed long years to elapse without objection, the strong presumption might be raised that the title was as the memorial asserts. The conclusion drawn by Pigot, C. B., in *Scully* v. *Scully*, would be applicable: "I think the inference is so cogent as to be almost irresistible that the possession of the land was influenced by a contract corresponding in import with that contained in the articles of which the document purports to be a memorial."

But when we find the Gough family abstaining for half a century from doing any act to gain possession of valuable land, and late in 1859, for the first time, bringing ejectment on a title said to be acquired in 1807, the inference to my mind at least "is so cogent as to be almost irresistible," that the claim is utterly lacking in all those evidences of good faith, and substantial right required by courts of justice in the formal proof of title to landed property.

A long undisturbed possession by the Goughs to the knowledge of the alleged grantors, who thus acquiesced in the long enjoyment of this estate by another, naturally suggests the presumption that such possession is of right. If we found the additional fact that the possessor affected to be the absolute owner, as by conveying to another in fee, &c., &c., it would heighten the presumption.

Our minds are first led to the belief that there was a right for all this, and then we are led on to infer from all the circumstances that the right was as is set forth in a memorial publicly placed on record with all statutable requirements, as a formal assertion of title by the grantee. We thus are led to believe that the long undisturbed possession and acts of ownership were based on this foundation of right.

Such a conclusion strikes my mind as analogous to that class of cases in which inferences are drawn from the silence of persons who listen without objection or dissent to the assertions of title by another derived from them, and who afterwards permit such other to obtain possession, and use the property so claimed for years without objection.

In this way the facts all combine to make up evidence directly affecting the alleged grantor, and making the presumption convincing that the claim is as the grantee asserts.

My opinion is that the plaintiff wholly failed to make out any case for a jury—that his evidence only proves that his ancestor fifty years ago asserted a claim to this land by his own written declaration and the oath of a witness in the registry office, that he never pursued his alleged right —and that it would be contrary to all authority, and tending to established a most dangerous precedent if such evidence be held sufficient to give title to an estate.

I think the nonsuit was right. In the view I have taken, it is unnecessary to notice at length the further strange feature in the case, that the Barrett family seemed to have claimed the land for many years, and that Montgomery states that he received a deed from young Barrett, purporting to be from T. B. Gough to his mother, which deed was not produced or accounted for.

The evidence (in a case of *Fields* v. *Livingstone*, 17 U.C. C.P. 15) to support a conveyance from a sheriff under execution to one McCrea, was as follows:—Searches for the deed, which the Court held sufficient; proof of the *fi. fa.* against lands; the receipts thereon endorsed by sheriff 6th December, 1823; memorandum attached thereto in the sheriff's handwriting signed by him, "Lot 17, Con. 1, Harwich, sold at sheriff's sale 11th December, 1824, to William McCrea, for £125, sheriff's fees paid by William McCrea;" the *Gazette*, and publication therein dated 9th December, 1823, reciting a seizure of the land by the sheriff and notice of sale for 11*th December then next;* a memorial signed by the grantee, produced by the registrar, registered 17th December, 1820, purporting to be of a conveyance by the sheriff dated 16th December, 1830, in consideration of £125 paid him by McCrea, whereby he granted the land to McCrea, and all the interests of the execution debtor therein; it was therein stated that the deed was witnessed by two witnesses, gentlemen, residents of the Town of Sandwich. This memorial was signed by the *grantee*, in presence of but one witness. It was also proved that the execution debtor died in 1824 and under an ejectment suit his widow was turned out of possession in 1825 by the deputy sheriff, and possession given to McCrea. The material objections on the question of evidence were, that there was no sufficient secondary evidence, that the memorial signed by one witness only was void as such under the Registry Act, that it bore date 20th December, 1830, was registered 17th December, 1830, and the affidavit of execution appeared to have been made 22nd December, 1830.

The following is part of the language of the Court on giving judgment:

"Are the facts, then, in the present case consistent, and more consistent with the fact of the