

John MacGregor, for plaintiff.

T. J. Robertson, Newmarket, and J. H. Moss, for defendant Trivett.

TEETZEL, J.:—I find that by deed dated 22nd July, 1887, plaintiff became possessed of a good paper title to the whole of lot 3, save 200 acres on the front or north end thereof, sold and conveyed for taxes to William Cathcart, by deed dated 3rd October, 1831, and the plaintiff claims that such title covers the 14 acres in question in this action. Defendant's paper title to the north 100 acres is derived from the tax deed. The first conveyance in the chain of title thereafter, dated 24th April, 1860, describes it as the north 100 acres of the west half—metes and bounds being given . . . There can be no question as to the sufficiency of the defendant's paper title to the north 100 acres, but he has not a perfect paper title to the south 14 acres. . . .

I find as a fact that Ezra Grant, the original grantor of the 114 acres to defendant, built a substantial log and pole fence along the south boundary of said 114 acres in 1880 or 1881, and that, when defendant purchased the property, he in good faith supposed it marked the southern limit thereof, and has ever since maintained it as a boundary fence.

I also find as a fact that in 1888 and 1889 similar fences running north from this fence were built along the easterly and westerly boundaries of the 14 acres, connecting with the other line fences of plaintiff and completely enclosing the 14 acres with the other lands of plaintiff to which he had a good paper title.

Ever since the 14 acres were so enclosed, defendant has, either by himself or his tenants, lived upon and occupied the 114 acres as an enclosed farm, having cleared and cultivated the greater part of the front 100 acres of it, and having used this 14 acres with other uncleared land adjoining to the north as one undivided bush, in the usual course of husbandry, for pasture and firewood.

In my opinion this continuous occupancy and use of the enclosed premises as a whole, for more than ten years prior to the commencement of this action, was such actual, constant, and visible occupation thereof as to vest in defendant a good possessory title to the 14 acres. See *McConaghy v. Denmark*, 4 S. C. R. 632; *Harris v. Mudie*, 7 A. R. 414; *McIntyre v. Thomson*, 1 O. L. R. 163, and other cases therein cited.

I am of opinion that this lot of 14 acres, when taken possession of by defendant, was in a state of nature, and has