

The appeal was heard by BOYD, C., RIDDELL and SUTHERLAND, JJ.

W. S. Brewster, K.C., for the plaintiff.

M. K. Cowan, K.C., for the defendant.

The judgment of the Court was delivered by BOYD, C.:—  
The legal effect of the Statute of Limitations, where one is let into possession of land as in this case, is, that he becomes a tenant at will, and the right of entry to the owner accrues at the expiration of one year thereafter. The continuation of the possession is regarded as a tenancy at sufferance, unless evidence be given that a fresh tenancy has been created. A new tenancy at will is to be implied from acts and conduct of the parties which ought to satisfy a jury (or the Court) that there is such an agreement. . . .

[Reference to *Farmer v. Hall*, [1899] 1 Q.B. 999; *Doe d. Bennett v. Turner*, 7 M. & W. 235; *Doe d. Groves v. Groves*, 10 Q.B. 486; *Foster v. Emerson*, 5 Gr. 143, 152; *Turner v. Bennett*, 9 M. & W. 644, 645, 646.]

In the present case, during the whole period of the son's occupation, and after his death, the lot has been assessed to the plaintiff as freeholder and to the son as tenant, and the taxes have been uniformly paid by the father. This appears to me to present an act in pais respecting the property which manifests the very truth that the father was from year to year recognised as the owner and the son as the occupier or tenant; and this with the express assent and acceptance of the son.

The judgment in appeal proceeds upon the authority of *Keffer v. Keffer*, 27 C.P. 257, in which one of the Judges discredits the authority of a very carefully considered decision of a very strong Court in *Foster v. Emerson*, 5 Gr. 143. But this latter case is far from being overruled, and it is much more in point in its circumstances to this case than in *Keffer v. Keffer*. . . In *Foster v. Emerson*, as in this case, to give effect to the statute would be to frustrate the clear intention of the owner to hold it in his own hands as the proprietor. The utmost that can be said is, that Noble bought the lot for his son, but kept the deed of it, and the defendant (the son's wife) understood that he did so because he did not want Frank (the son and her husband) to do away with the house, on account of his drinking. The father paid wages to the son for work done in the father's business, and allowed him to live rent free on the land—the father paying the taxes and supplying materials for any repairs and outlay needed in the house. The father paid frequent visits to