entry under the statute was barred—that there was a dispossession or discontinuance, within the meaning of the statute, of this land which was not actually fenced, as well as of the land north of it and the land south of it which was fenced. I think that the distinct acts of the plaintiff and the plaintiff's ancestor recognized the possession of that land by the defendants, although the intention was at some time or other to assert a right to it, when they would be able to assert their right to greater advantage. Their acts were, notwithstanding, a distinct recognition of possession in the meantime, which amounted to a discontinuance of possession on their part. And even if apart from that there was sufficient possession—taking the doctrine of *Davis* v. *Henderson*, (a) and other recent cases into consideration—I think that the purpose they had of disputing the possession afterwards was unfortunately for them deferred too long—has been allowed to remain until the statutory period has passed. I don't think that the possession here is distinguished from that in *Davis* v. *Henderson*. What I understand to be established by that case and others of the same class is, not that possession of one portion will be drawn to another portion merely because they belong to the same Territorial Division; but that when possession is taken of land as a whole it affects it as a whole. The question in *Davis* v. *Henderson*, was whether a person taking possession of the land and only occupying a part of it under a fence could be held to have possession of the whole of it—whether the possession of the unoccupied part was to be taken with the other. There considerations were allowed to come in—payment of taxes, and so on—which carried the doctrine somewhat further than in other cases. I think that the principle of that case applies here. I think that not only the intention of the defendants and their ancestor, but the intention, as recognized and understood, and, to the extent I have mentioned before, acquiesced in by the plaintiff and his ancestor, was to take possession of the whole of this strip; and that within the principle of this case, the possession must be held to have been possession of the whole. I do not think there is anything that should weigh with me at present in reference to the question of the exact extent to which the fence has followed that line of Smith's. The line of Smith I have no doubt is the line which governed this question of possession; and the line of fences, as far as they have been up for the length of time, would of course govern, whether they conformed with the line or not. If the recent fence which stands there at present does not exactly follow Smith's line, there is no evidence before me that any trespass has been committed on the strip of land which would be between them. I do not think that the cutting down of a tree by Macdonald was an act for which an action of trespass could be brought. It is not a question of title, it is only an action of trespass. I think that the title of the plaintiff to the land trespassed upon has been lost by the statute, and that under the statute the title was vested in the other party. I therefore enter a verdict for the defendant.

(a) 29 U. C. R. 355.