

lot 7, his son-in-law, and such claims are deliberately allowed by an Order in Council. Lot 5, and I know here is one with actual occupation and possession—evidenced by residence, building, fencing, cultivation and improvements— for years, and having tenfold more strength as a claim; and it north of his should in my opinion, with much greater force of law and facts les in question supporting it, be allowed.

I referred again to the view which, as I understand the precedents in the Department of the Interior, cannot be disputed, that "possession" does not merely refer to the actual land it may be on which a house has its site, or to the actual land enclosed within fence, or the actual land ploughed and cultivated; but to the "lot" or "tract" on which the house is situate, or on which a portion is fenced, cultivated or improved. In this case both principles apply. Lot 7 was built upon, fenced, cultivated and improved. Lot 5 was also in a similar way. The application for lot 5, as no lot 5 has been allowed; with equal reason lot 7 should be said land." allowed. The only difference possible is the single fact that at the time of the transfer the residence or house of Joseph Goudon was not on lot shown. This should not make any difference, as the house or residence of Larocque, who gave the land to Goudon, was on it, and was used by Goudon up to and at that time; and besides it was otherwise in sufficient "possession."

The holding in this case was two lots, occupied together, possessed and enjoyed, cultivated and improved together, or as one lot or tract, and not as two lots or tracts. It became two lots after the Government survey. That fact should not militate against the right to it; and does not either in law or in fact.

The act of surveyors dividing his holding was not the act of the applicant or his assignor. They are obliged to acquiesce in it and probably in the extent of acreage in the lots so carved out of the "tract." Although that is hardly just to every extent, yet it may be regarded as practically equitable, but less than that is practical injustice.

JAMES BEATY, Q.C.

OTTAWA, 20th April, 1882.

enture to say
the Crown
of possession
ent to which
r in Council
ed "staked
, and with-
least 45,000
own at the
rovements;