title to that part of the strip, but between the gate at the rear of the plaintiff's house and the rest of the strip to the south was unenclosed and the main contention in the action was in regard to this part of the strip over part of which the eaves of the plaintiff's house projected. The defendant since 1899, at first as tenant of the adjoining lot, and subsequently as owner in fee thereof, had used the strip as a way to the part he had fenced off in the rear and had apparently acquired an easement therein; but the defendant in fact claimed, and the Court allowed his claim, to have a possessory title to the whole of the strip in fee simple. So far as the part of the strip abutting on the street was concerned, and which was bounded in part by the wall of the plaintiff's house, the case bore a strong resemblance in its facts to those in *Kinloch* v. *Rowlands*.

In the Canadian Case, the Divisional Court (Meredith, C.J.O., and Maclaren, Magee and Ferguson, JJ.A.) held that the defendant's possession was sufficient to extinguish the plaintiff's title to the whole of the strip, even as to that part overhung by the eaves of the plaintiff's house, but "without prejudice to any easement the plaintiff might have acquired or retained" over the land in dispute in respect of the overhanging eaves. But it is needless to say, a man cannot acquire an easement over his own land. So long as the strip remained the plaintiff's land, the eaves of his house overhung the plaintiff's own land, and consequently the right to so maintain there was in no sense an easement, but a right incident to the possession of his land. The easement could only begin where the title of the plaintiff to the underlying strip ceased to be the plaintiffs'; but in order to give him an easement, without an express grant, twenty years undisturbed enjoyment would be necessary, and in this case the enjoyment of the right to maintain the eaves as an easement only began in 1909, and consequently at the time of action the rights to an easement had not matured, but having regard to the maxim *cujus est solum ejus est usque ad cœlum*, it would perhaps be more correct to say that as to that particular portion of the column of air occupied by the eaves of the plaintiff's house the defendant had not acquired possession, a position which may perhaps be supported by the