

5. I know the lot of land, now Lot seven (7), which was given to my brother-in-law, Joseph Goudon, by my father-in-law, Joseph Larocque, and the building which was on it. My brother-in-law used the building, which was large, about twenty feet square, as stables, and he built another building, also for stabling, on the same land and occupied them both for many years before and at the time of the transfer and up to the time he sold the same to Mr. Clarke. We all knew that the land and building were given to the said Goudon by his father-in-law, and all the family were aware of it.

THE STATUTE

under which this claim is made is 33 Vic., ch. 3, sec. 32, s. s. 4, which says:—

"All persons in peaceable possession of *tracts* of land at the time (15th July, 1870) of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same on such terms and conditions as may be determined by the Governor in Council."

This Parish of Ste. Agathe was a portion of the Province in which the Indian Title had "not been extinguished," and this legislation was designed "for the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them" (12th May, 1870.)

Purchasers of holdings are then defined, the last of which is set forth in sub-section 4 as above quoted, and it had the effect of "assuring to the settlers" * * * "of lands" then "held by them," the "*peaceable possession*" and "the quieting of titles" to such lands; and to "all persons in *peaceable possession* of *tracts* of land" * * * "the right of pre-emption of the same." This section does not limit the possession to a "lot," although the term "lot" is used in section 31, but defines the holding as the "peaceable possession of *tracts* of land," which may mean more than a lot; not likely to mean less.

1. The first question that presents itself is: Had Clarke or his vendor "peaceable possession" of a "tract of land"; the tract or lot in question?

2. To what extent is "possession" required of such "tract"? How long is the possession required to be? What is the nature of the "possession" which entitles the holder to "the right of pre-emption"?

"Possession" is a wide word, and of large application. In cases in the new territory in Manitoba almost any actual locating