

HODGINS, J.A., reading the judgment of the Court, said that the strip of land in question lay to the west of a creek and lake. On the east side of the creek was an old fence which extended down for half or three-quarters of the distance to where the creek emptied into the lake. From the end of this fence to the lake, the land was swampy and covered with underbrush, forming a barrier for cattle. From the creek south-eastward the shore of the lake formed a natural boundary.

The appellant bought in 1913 and the respondent in 1901. In June, 1915, the appellant took down the old fence near the creek and built one cutting off the land in dispute from the respondent's farm. The question was, whether the respondent had acquired by possession a good title against the appellant, who had the paper title to the land.

The test in cases of land unsuitable for cultivation or other easily proved use, is, that such acts should be shewn as would naturally be done by the true owner if he were in possession: *Davis v. Henderson* (1869), 29 U.C.R. 344; *Piper v. Stevenson* (1913), 28 O.L.R. 379, 391; *Nattress v. Goodchild* (1914), 6 O.W.N. 156.

The respondent was not a mere trespasser, having entered under the belief that he owned up to the creek and lake. The respondent himself said that in conversation with Hannah, the appellant's immediate grantor, the latter asked that, if any of his cattle had got through the fence on the respondent's land, they should not be turned into the road. This understanding as to the boundary was acted on for 20 years and till Hannah died, and during that time the fence on the east side of the creek, which was there when he bought in 1878, remained standing. The lake and this fence formed the visible boundary. The use made of the land was that which would be natural if the respondent had been actually, as he thought he was, a riparian proprietor. He pastured his cattle, watered his stock, cut ice in the lake, cut and hauled off trees, and all this, during fourteen years, in full view of the appellant. The old fence, the dense underbrush, and the lake formed a visible boundary, and no single instance of any invasion beyond it was shewn, either during the respondent's ownership or his predecessor's—a period of 37 years—until the appellant crossed the line and built a new fence.

*Appeal dismissed with costs.*