

the allowance for road between lots 30 and 31; then south 39° 30', west one chain 50 links, more or less, to the centre of the concession, &c.; and in the year 1850, another grant was made of lot No. 31, in the 7th concession, as containing 34 acres, without any description by metes and bounds. In the original survey of the township the allowance for road between lots 30 and 31 had never been run through, or any posts planted on the rear of the lots, although posts had been planted at the front angles, and by producing the line as it had been run between lots 30 and 31 in the 6th concession, the distance of 35 chains and 50 links, as given by the patent, along the allowance for road on the northerly side of the township, would be materially lessened. The owner of lot 31, treating the person in possession of lot 30, as a trespasser, in respect of all the land not included within such limits, brought an action of trespass against him.

Held, reversing the judgment of the Court below, that the grantee, under the patent of 1838, in the absence of any post to mark the allowance for road, was entitled to the full distance of 35 chains and 50 links, as specified in the grant, without any reference to the posts planted at the front angles of the lot. [*Macaulay, C. J., Esten and Spragge, V. CO.*, dissenting.]

Dixon v. McLaughlin, 370.

3. On the 8th of January, 1836, a surveyor, in compliance with instructions from the Government agent laid out a road or street on the northern limits of the town of London, two chains wide, a portion of which was then, and had for some time been, in the actual possession of the Episcopal Church, to which body a patent subsequently, and on the 18th of January, 1836, was issued, granting to them all that parcel or tract of land, "on which the Episcopal church now stands, and containing four acres and two-tenths of an acre or thereabouts," upon an indictment for a nuisance in stopping up the highway.

Held, that this survey, although made after the grantees had gone into possession, must prevail against such possession. [*Hagarty, J.*, dissenting.]

Mountjoy v. The Queen, 429.

HIGHWAY.

See "Grant from the Crown," 3.

INDIAN RIGHTS.

See "Rescission of Contract."