

of upon which now stands the old brick-veneered portion of the present building claimed to be owned by the defendant.

"3. And this Court doth further order and adjudge that the defendant do pay to the plaintiff the general costs of the action, except the costs incurred by the plaintiff in attempting to prove a tax title to said lands."

The plaintiff cross-appealed against that portion of the judgment which declared the tax deeds invalid, and asked to have them declared valid and binding, and for an order allowing the plaintiff damages for preventing him from occupying the land in question.

The action was brought by the plaintiff, as purchaser and grantee of all the right, title, and interest of the heirs and heiresses at law of James Carleton, late of the city of Chatham, deceased, in lot 6 and the southerly half of lot 5 on the east side of William street, in the city of Chatham, according to plan number 9, in the pleadings mentioned, to recover possession of the land, and for the removal of buildings, and for \$300 damages for refusal to give up possession, and for an injunction. The plaintiff also claimed title to the said land under a tax sale held by the Corporation of the City of Chatham on the 6th December, 1911, and a tax deed from the said corporation dated the 28th January, 1913. It was conceded that the defendant was entitled to possession of the land occupied by the brick building shewn on the plan.

The chief controversy was as to the frame structure, commonly called a "lean-to," which extended beyond the line of lot number 6 as surveyed by W. G. McGeorge and shewn on his plan. The defendant claimed up to the fence built five or six years ago, and marked on the plan "by possession."

I do not think that the defendant has shewn that quiet, peaceable, exclusive, and continuous user and occupation which would entitle him to hold any of lot number 6 beyond McGeorge's line. There was no permanent fence between the lots; there was no regular cultivation or cropping of the land; the garden which Mrs. Charlton is said to have had, was open to the neighbours' cattle and subject to their depredations.

I think that W. G. McGeorge's line, which forms the boundary between lots 6 and 7, shewn on the plans exhibits 29 and 30, is the true line. By reason of a complication of surveys, and in order to define the limits of the town and the proper boundaries of the streets and lots, the Corporation of Chatham caused a re-survey to be made and stone monuments to be planted indicating the boundaries and the streets and lots.