

to be beyond any doubt that almost from time immemorial, and at all events for more than 60 years, lands had been bought and sold and described with reference to Nicholas street as a boundary, easement, and means of access; and statute-labour had been done and municipal funds expended upon Nicholas street for its construction, repair, and improvement as a public highway.

Reference to secs. 432, 434, and 445 of the Municipal Act, R.S.O. 1914 ch. 192, and sec. 4 (1) and (2) of the Limitations Act, R.S.O. 1914 ch. 75.

What had been done conformed to the statutory requisites for constituting a highway; and the soil and freehold of a highway are, by the Municipal Act, vested in the municipality in which the highway is.

Not only is the right of action barred by the Limitations Act, but the title of the former owner, including the Crown, is extinguished by possession of the character contemplated by the statute upon the expiration of the time limited for bringing an action.

The defendant companies seek to evade responsibility under cover of a title which the Crown does not assert. The companies proportionately derive at least as much benefit from these improvements as any specially assessed ratepayer in Ottawa, and their defence is wholly wanting in actual merit. It would seriously unsettle conditions long recognised and concurred in, and lead to endless trouble, if a land-owner, after two-thirds of a century had elapsed, could successfully refuse to perform his allotment of statute-labour on an alleged title of the Crown, not claimed by the Crown.

Upon the facts appearing in evidence, the learned Judge did not feel bound as a matter of law to give effect to the contentions of the defendant companies.

There should be judgment against both defendants with costs.

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HUTTON v. DENT—KELLY, J., IN CHAMBERS—NOV. 12.

*Judgment—Default of Appearance—Action on Foreign Judgment—Defence—Judgment Set aside and Defendant Let in to Defend.*—This action was upon a judgment obtained by the plaintiff in the Province of Saskatchewan. Judgment in this action was entered on the 21st June, 1920, on default of appearance. Before the entry of judgment, there was correspondence between the solicitors of the respective parties as to extending the time for appearance, for reasons indicating substantial difficulties in the way of the defendant's solicitors obtaining the neces-