

part of plaintiff's lands. This building of plaintiffs', according to Blondie's evidence, extends 143 feet and 5½ inches easterly from the present east side of James street. The wall erected by defendants has had the effect, not only of severing the rear portion of the southerly part of lot 3 from the land to the west of it, but also deprives plaintiffs of the means of access to the westerly part from the southerly 11 feet 4 inches of lot 3 on Hughson street over which they claim to have a right of way, and it is to restrain defendants from so building and maintaining this wall and to assert the rights of the plaintiffs that the action is brought.

Defendants rely to some extent upon the conveyance of May 30th, 1913, from Hill to them. This conveyance does not, however, purport to grant any part of lot 3 on James street, but is taken on the assumption that the true boundary line between that lot and lot 3 on Hughson street lies to the west of what I find to be its real location; so that the most defendants can claim under that conveyance is the title of Hill, whatever it was, to the westerly portion of lot 3 on Hughson street and his right, title and interest, if any, over the rear 12 feet of lot 3 on James street. Hill had, however, long prior to making this conveyance, parted with all of lot 3 on James street, except any right that might have remained in him to pass over the rear 12 feet thereof. In the early days of his ownership of that lot, Hill erected on the northerly part of it a stable, the east wall of which was on the line of the east wall of plaintiff's present building. That line is several feet west of what I have found to be the boundary line between the lots. Hill says that he built his stable about 12 feet west of what he then considered was the dividing line between the two lots. What he had in mind in leaving this 12 feet unencumbered by buildings was the prospect of using it for the purpose of a passageway or driveway which he hoped might be continued over the easterly portion of lot 4, owned by Pronguay. Pronguay also appears to have had in mind some such scheme with reference to lot 4.

. This may help to account for the existence, if it did exist, of an old fence or other physical boundary on Pronguay's property on the line of the production of the easterly wall of Hill's stable.

A further position taken by defendants is that Martin's title was not perfected by the foreclosure, inasmuch as