

over the site in question. I think that, even if the McDonald plan was shewn to be a true copy of the original plan, reading the plan with the deeds, the latter must be regarded as declaring that a sufficient part of the lot marked on the plan lying east of lot 12 was "allowed," that is, declared to be, for a road, and that such is the meaning of the plan.

I think these two deeds were solemn declarations by the trustees of an intention that the land in question was then an allowance for a road, and, dedication being always a matter of intention, were acts of dedication.

The trustees have never since that done any act to revoke or qualify the declarations contained in these deeds, and it is admitted that the land in question is now, and has been for many years, an undoubted highway, and it is clear that it can only have become so by dedication. The sole question is, whether the dedication had become irrevocable before defendants laid their track across it.

It is in evidence that about the date of Jones's deed he was in occupation and built upon lot 12, and that between that date and 29th December, 1855, the land was conveyed by and to successive owners six different times, besides as many mortgages, in all of which deeds the allowance for road is referred to in the same terms as in the deed to Jones, and on the last mentioned date the then owner conveyed to defendants a strip across 10, 11, and 12; 30 feet wide, lying 441 feet south of Front street "along the west side of Cherry street."

[Reference to other similar deeds.]

It thus appears that all parties interested in the adjacent lands from and after 19th October, 1850, including defendants, in their dealings therewith expressly recognized the existence of the allowance for a road or street extending to the Don, and across what is now the right of way of defendants.

[Reference to the evidence of the use of the street by the public.]

The evidence of Cadieux, Barnes, and Ward is amply sufficient to shew a use by the public of this allowance as a road or street, for several years before defendants laid down their tracks upon it, and that that use, taken in connection with the conveyances made by the trustees of the adjacent properties in 1850 and 1853, established the street as a public street when defendants laid down their tracks.