

the actual laying out of the survey, to have such accuracy as would insure concession roads determined in this way being in a continuous straight line. As the result of this, Main street, as actually laid out and travelled for very many years, is 66 feet in width, but at certain places there are jogs in the boundaries.

Comparatively recently an original monument was found which shewed that the south boundary of the street as travelled is 2 feet north of the true limit. There is no room for doubting the accuracy of the street line thus determined, for at the time of the discovery of this boundary post, at the north-west angle of lot 13, an old oak tree was found which in early conveyances was referred to as being at the north-east angle of the lot; and, besides this, a brick dwelling on Wellington street, which is erected on a parcel of land described as beginning a certain distance south of Wellington street, is found to conform to the measurement from the true boundary.

It may well be that those who have been encroaching on the south side of Main street have not acquired any title to the land of which they have been in possession; but it does not follow that the land on the north side of Main street, which has been in public use for all these years, has not become part of the highway. A dedication through acquiescence in public user is very easily inferred, and I think that there can be no doubt that the presumption exists in this case, and that the owners of the lands north of Main street cannot now claim the right to build down to the theoretical street line.

When the owner of the block lying between King street and Main street and abutting Walnut street came to subdivide this parcel, the subdivision was made, I think, with reference to Main street as it was actually travelled. It was quite competent for the owner of this parcel to lay out the subdivision with reference to the actual boundaries then existing, treating the travelled road as being the true road, and recognising the dedication of the two feet to the public. I think this is what was done, for the survey was evidently carefully made. The distance along Walnut street between King street and Main street corresponds precisely with the distance between the travelled roads upon the ground, 280 ft. 8 inches. If this is so, then the grant to the plaintiff had for its southern boundary a line parallel with Main street as travelled, and distant 73 feet north therefrom. If this is accepted as the true southern boundary of the plaintiff's land, then the Templar building has not encroached upon