1854.

Guelph v. Canada Co.

did not reserve, even mentally, an intention to retain a controlling power over the land in question; and I certainly have no doubt that if they did it could make no difference, for I feel satisfied that no one can be heard to say that he retained in his own mind an intention at variance with that which his acts manifested to the world. This is so plain as a matter of reason that it can hardly require authority to support it; but the observations of Lord *Denman* and of Judges *Patterson* and *Littledale* in *Barroclough* v. *Johnson* (*a*), and of Lord *Denman* and Mr. Justice *Patterson* in The *Queen* against The Inhabitants of *East Mark* (*b*), are pertinent to this point.

Judgment.

With regard to the supposed right which the defendants appear to have assumed as remaining in them to make such alterations in the plan of the town as circumstances might from time to time suggest, I can scarcely conceive a doctrine more dangerous to the rights of others. If such an unfettered discretion resides in the company, I see nothing to prevent their going much further than they now propose to do, and reducing the easterly portion of the open space to half its present dimensions, or making other alterations to the prejudice of the public, of the town, or of individuals residing in it; and that, after the lapse of almost any number of years. When a dedication has once taken place, whether made by a corporate body or an individual, the party dedicating has, as the very term imports, parted with all control over it inconsistent with the use to which he has appropriated it.

It is alleged that some alterations—deviations from the original plan of the town—have been made by the company and acquiesced in, and some instances are referred to in evidence, and it is contended that this is evidence against the fact of dedication. If in this case we were left to infer dedication from user, such

(*a*) 8 A. & E. 99. (*b*) 11 Q. B. 877.