

The contention of plaintiffs is, that as long ago as the year 1850, if not before, the street at the place in question was dedicated as a highway by the trustees of the Toronto General Hospital, who were then the owners in fee simple of the land, and that from that time the public have used it as such. . . .

[Reference to letters patent from the Crown to the hospital trustees dated 26th April, 1819 (see 10 & 11 Vict. ch. 57), of a large tract of land bounded on the east and south by the river Don.]

The trustees subdivided this land, laying it out in building lots, with streets running generally north and south, and east and west. The most southerly of these was called Front street, and three others came to this street from the north, two of them crossing it and running to the south boundary on the Don, and another, intermediate between the other two, called in the older plans Brook street, and the later plans Cherry street, admittedly coming to Front street. The contention of defendants is that Cherry street never became a public street or highway further south than Front street, or at all events not where it now crosses their track, until after their occupation. . . .

[Reference to 9 Vict. ch. 35, sec. 33; 12 Vict. ch. 35, sec. 42; plan filed in the registry office on 25th January, 1855; plans dated October, 1847, 14th May, 1837, 17th August, 1846.]

The acts or evidence of dedication relied upon by plaintiffs are two conveyances made by the hospital trustees, the one made on 19th and registered on 31st October, 1850, of 3 lots lying to the west of the street in question, to one Jones, and the other made on 14th October and registered on 2nd November, 1853, of the lots on the east side of the same street, to one Jackson; and it is alleged that from and after the making of these deeds, if not before, that part of the street was used as a street by the public, and became in law by dedication a public street or highway. . . .

[Description of the land conveyed to Jones, as described on the plan of lots laid out by the trustees as lots 10, 11, and 12, on the south side of Front street, and (by metes and bounds) as extending "along the water's edge of the river Don in an easterly direction to the eastern limit of lot 12, being the western boundary of allowance for road as described on the plan aforesaid, thence along said boundary north 16 degrees west 7 chains 30 links more or less to the southern boundary of Front street."]