

terminated? His surveyor took the line dividing Cumberland from Russell, the adjoining township to the south, as governing the course of the side line, because, though the lots numbered from the north, there was no continuous straight line at that end of the concession. He found an original monument on the rear line of the 7th concession, intended to mark the limit between lots A. and B. there, and ran the side line from a point one chain west of that monument to the rear of the 8th concession, which if correct, shewed that the plaintiff should recover; while if the township was to be treated as double-fronted, the line should have been run from the post at the west side of the concession, and in that case the defendant should succeed.

It appeared that whole lots had been granted in several of the concessions, and the north halves of two lots and the south half of one, all before 1854, but that many more grants had been made from 1821 to 1858 for the east and west halves of lots separately described.

*Held*, 1. That the course of the side line was under the facts proved correctly ascertained, the case being within the proviso to sec 71, Consol Stats. U.C, ch 77, and the principle of *McDonald v. McDonald*, 11 C.P. 374.

2. That sec. 85 could not apply, for no line in front of the 8th concession had ever been run or posted. As to the starting point for the side line, the precise case of this survey is unprovided for by the Act: the concessions were not single-fronted for the lines had been run and posted in rear not in front, and very few whole lots had been granted; and they were not within the definition of double-fronted concessions, or within sec 28, for only a single row of posts had been planted, and the grants had not all been by half lots; but *Held*, looking at the instructions, the evidence of the surveyor and the grants made, that the weight of evidence was much in favour of treating the township as one with double rather than single-fronted concessions, in which case the plaintiff's side line had not been correctly determined.

*Held*, also, that if a single-fronted concession as the posts in rear of the seventh were intended to govern the front angle of lots in the eighth concession, the plaintiff's line might properly being as it did by his survey. *Holmes v. McKechin*, 23 Q.B., 52.

TOWNSHIP OF CUMBERLAND, SURVEY OF—SINGLE OR DOUBLE-FRONTED CONCESSIONS—EVIDENCE—SECOND NEW TRIAL GRANTED—12 VIC., CH. 35, SEC. 37.

See this case reported on a previous motion for a new trial.