

street; thence easterly parallel with the southerly limit of said lot three one hundred and sixteen feet four inches to the westerly limit of Hughson street; thence southerly along the westerly limit of Hughson street eleven feet four inches to the place of beginning. Subject as to the southerly eleven feet four inches of the said parcel hereby conveyed to a right of way in common with all other parties entitled to use the same for a right of way."

The dispute which resulted in the present action is largely traceable to two sources; first, the uncertainty that seems to prevail as to the true location of the boundary line between the lots fronting on James street and those fronting on Hughson street, and secondly, from the contention set up by defendants that even if the location of that line is such that the lands in dispute are really a part of lot 3 on James street, plaintiffs and their predecessors in title have been out of possession for such time as defeats their title.

The only record from the Registry office put in at the trial of any plan of the lots in this block was two maps, or copies of maps, which are and have been for a long time in use in that office. These are not original plans and do not bear the signatures of any surveyor or other person by whom they were made. One states on its face that it is "A plan of the town of Hamilton, Upper Canada, reduced and compiled from various surveys in 1836 by Alxr. MacKenzie, surveyor," and it shews lots in this block in the number and consecutive order mentioned above. It also shews the James street frontage of each of the lots fronting on that street to be one chain and eight links. The other is exactly the same in so far as it indicates the number and order of the lots, but it gives no dimensions. It bears the statement that it is "A plan of the town of Hamilton, Canada West, reduced and compiled from various surveys in 1837 by Joshua Lind, surveyor."

These maps or plans seem to have been, to some extent at least, recognized by conveyancers and surveyors. The evidence of the Deputy Registrar, who has held his present position since 1890, is that there is no registered plan shewing lot 3 on James street or lot 3 on Hughson street. It is contended for defendants that these MacKenzie and Lind maps do not properly establish the location of the lot lines or the size of the lots, and that they are not proper sources