

title of the litigants. There is strong inferential evidence that the old site of the public highway as it existed prior to 1860 has been changed in making Sandwich street so as to run further from the river in front of this lot, and indeed there is direct evidence to that effect from the surveyor Newman . . . who says that the "old road ran by the red line" in his map. With that line of old road as the public highway recognized in the Crown lands office (and no more modern one is known there), the survey of to-day agrees accurately with the description of the Normandieu lot as conveyed to Port, and with the description given in the patent.

The Port patent was to be "consistent with patents for other parts of the lot." In the Crown lands office it appears that a patent was issued to Mrs. Caron and Mrs. Salter on 17th November, 1859, according to Wilkinson's plan, wherein the old public highway and the lane in the rear appear. These form the front and rear boundaries of that part of lot 77 which adjoins the part of the lot claimed by Port immediately to the west, and this lane is mentioned in the patent. This again confirms the conclusion as to the boundaries on the ground which the Crown recognizes and acts upon. What was so definitely described in the boundaries of the patent of 1859 is also to be intended to be done by the boundaries in the subsequent patent of 1874 in regard to a part of the same lot with the same original French boundaries. Effect is thus given to every word in the patent, and right is done as between the litigants.

If the patent was manifestly irreconcilable with this method of treatment, I should not hesitate to hold that any legal estate granted by the patent in respect of land owned by plaintiff could not be made use of in a court of equity to displace the beneficial title of the true owner under the French occupation. As to such legal estate defendant would be trustee, as was the Crown, for the rightful owner. . . . I may refer to two cases as shewing what evidence is proper to explain a patent in like conditions: *Van Diemen's Land Co. v. Marine Bank of Trade*, [1906] A. C. 92, and *Conn v. Pew*, 1 Peters C. C. 496. . . .

The decision should be affirmed with costs.

[The Chancellor adds an interesting "supplementary note" on the French settlement at Detroit in reference to the legal character of land-holding.]