

of the Crown was evidence of the intention of the Crown to make an unqualified conveyance of all the lands and lands covered with water described in the grant.

*Foran*, K.C., and *Cannon*, K.C., for appellants. *Aylen*, K.C., for respondents.

Ont.]

EAST HAWKESBURY v. LOCHIEL.

[April 27.

*Municipal corporation—Survey—Road allowance—Evidence—Departure from instructions and plan.*

The Township of Lochiel forms part of the original Township of Lancaster laid out and partially surveyed about the years 1784 or 1785, as composed of seventeen concessions. Subsequently an eighteenth concession was added, and, in 1818, concessions 10 to 18 of Lancaster were detached as the Township of Lochiel. During the year 1798 the Township of Hawkesbury (now divided into East and West Hawkesbury) was laid out and partially surveyed by a deputy provincial surveyor, named Fortune, who returned his plan and field notes without the double lines generally in use to shew road allowances between Hawkesbury and the lands now lying upon the northerly and easterly limits of Lochiel. In completing the survey of portions of Lancaster and Hawkesbury in 1816 a D P.L.S., named McDonald, planted posts on the ground, but returned the plans and field notes without indicating road allowances at the points in question. The departmental instructions, under which these surveys were made, directed that the mode of survey, etc., should be according to a model plan shewing rectangular townships surrounded by double lines. None of these reservations were shewn on the plan of Hawkesbury and, in the Lancaster boundary, the rectangular form was broken.

*Held*, that there could be no inference from the instructions and model, in view of the other circumstances, that road allowances were intended to be reserved on the eastern and northern boundaries of Lancaster where the rectangle was broken.

*Held*, also, that even if the work subsequently performed on the ground by McDonald or other Crown officers might afford some evidence of an intention on the part of the Crown to dedicate as a highway certain portions which may have been reserved for the purpose, yet having regard to the decisions in *Tanner v. Bissell*, 21 U.C.Q.B. 553 and *Boley v. McLean*, 41 U.C.Q.B. 271, officers employed for the survey of an old line could not conclusively establish a road allowance along the boundary, if none had been reserved by the original survey.

Appeal dismissed with costs.

*Leitch*, K.C., and *O'Brien*, for appellant. *MacLennan*, K.C., and *Tiffany*, for respondent.