

Survey are in one and the same straight line. Extending the south limit of Gertrude Street in Orchard Hill Survey westerly, we find the north limit of the lots in Avondale Survey to be north of this extension. This makes the frontage of Lot 21 measure only 24 feet 5 inches and that of Lot 13 only 26 feet. Measuring northerly along the rear of the lots from the old stake at the south-west angle of Lot 34, the plan measurements come 9 inches north of the fences. That is, the fences at the rear of the lots

and might bring about a lawsuit. If the first surveyor is correct in using the old stakes, should not some means be provided whereby the error in the original plan might be corrected and the measurements properly shown on the plan in the Registry Office?

Fig. No. 2 shows part of Kenilworth Survey, Union Park and Eastholme Surveys. It is required to define the limits of Edinburgh, Britannia and Columbia Avenues in Union Park Survey. Union Park was laid out in 1900, Kenilworth in 1906 and Eastholme in 1911.

Deficiency in Width

On the north and south boundaries of Union Park there are now in existence the remains of old fences. The measurement along the east side of Ottawa Street from Barton Street to the old fence on the north boundary of Union Park is correct as shown on the Kenilworth plan. Similarly the measurement northerly from Main Street to the old fence on the south boundary of Union Park checks with measurement shown on the plan of Eastholme. This leaves a deficiency of 1 foot 2 inches in the width of Union Park, both at Ottawa and Province Streets. From old notes it was seen that the original stakes in Union Park Survey were still in existence at the time Kenilworth was laid out and that the south boundary of Kenilworth Survey was established by using these stakes. This determines the northern boundary of Union Park. Measuring southerly along Ottawa Street from this, boundary fences were found at the proper distances at both sides of Edinburgh, both sides of Britannia, and at the north side of Columbia Avenue. That is, the deficiency all appears to be in the row of lots lying between Columbia Avenue and the southern boundary of Union Park. These street lines were established in this way and the deficiency left between Columbia Avenue and the old fence at the south boundary.

There are probably two points that might cause disagreement here. First, it might be claimed that the deficiency, 1 foot 2 inches, should be distributed throughout all the blocks in Union Park. I think, however, that judgments in cases of this kind prove that this distribution would be incorrect in view of the fact that the fences indicated are in their proper positions in accordance with the plan measurements. There then remains this question: As Union Park was first laid out, should it not be given its proper frontage and the deficiency placed in the last row of lots in Eastholme Survey? This appears to me to be a matter of opinion only.

In the next survey (see Fig. No. 3) it was required to stake out Lots 23 to 27 in the re-subdivision of part of Fairleigh Park Survey. The original Fairleigh Park Survey was laid out in 1907 and included a row of lots on the west side of Fairleigh Avenue, Lots 1 to 11, lying south of Delaware Avenue and the lots shown in dotted lines lying north of Cumberland Avenue. The plan shows the measurement along the east side of Fairleigh Avenue from Delaware to Cumberland, but no measurement is given along the division line between Fairleigh Park and Delaware Park Surveys.

Differs from Plan

In 1907, Delaware Park Survey was laid out by the same surveyor and this plan shows that measurement to be 754 feet 2 inches. The re-subdivision of the southern part of Fairleigh Park was laid out in 1912 by another man and while he obtained the same line of Cumberland at Fairleigh Avenue, he evidently used some old fence posts that remain on the south side of Lot 29 for the line of Cumberland Avenue at the east side of the survey.

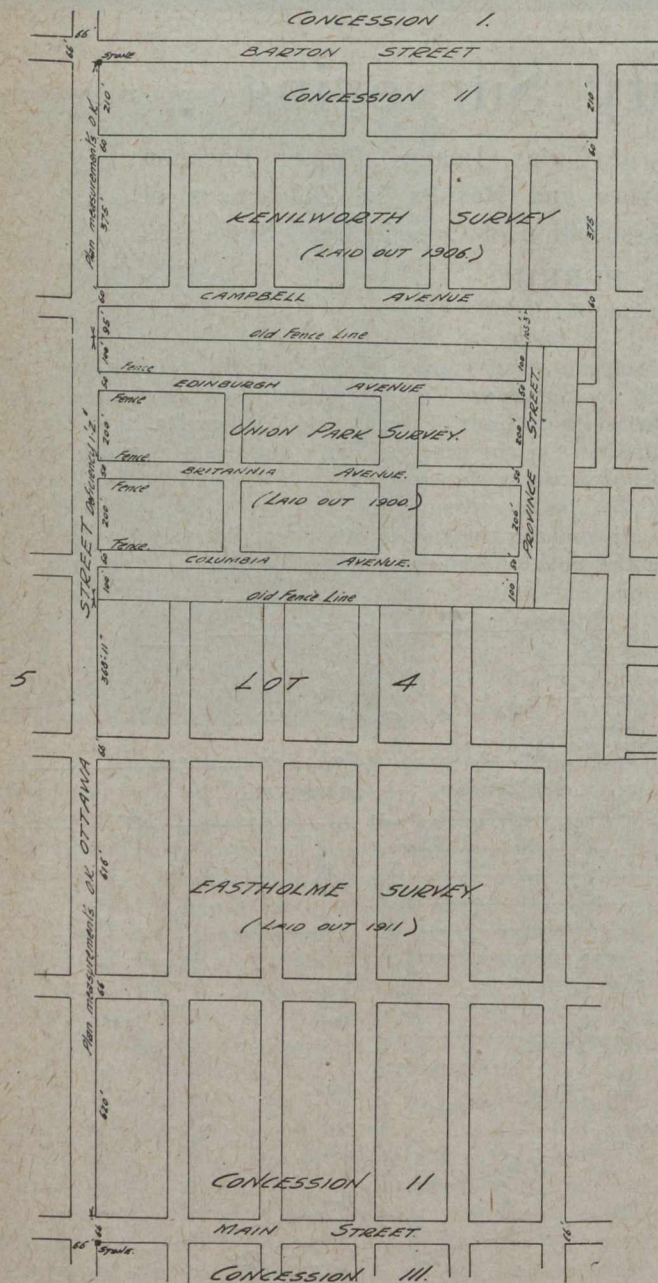


Fig. No. 2—Part of Kenilworth, Union Park and Eastholme Surveys

check up correctly if the line obtained by using the stone monuments were used for the northern limit of the Beach Road.

In a case like the above, is the surveyor justified in using the old stakes as the governing point of the survey? In a few years' time these stakes will be obliterated and another surveyor making a survey here would find that the measurement along Avondale Street from Gertrude Street to the Beach Road checked up within two inches and that this agreed with the position of the fences. This would probably lead to a difference in the two surveys