

than many of the other witnesses. It is a circumstance of some importance that it was only the rear part of lot 3 on the west side of Hughson street which he purchased in 1888, it did not extend to Hughson street, and the only means of access to it which he then acquired was by the right of way over the southerly 11 feet 4 inches of the lot; it is also of importance that when he made that purchase he was the owner of the equity of redemption in lot 3 on James street, and it is not an unreasonable inference to draw that he acquired this property because of its contiguity to the James street lot enabling it to be used with that lot, the two thus forming practically one block. He says that when he bought the James street lot there was a fence between it and the Hughson street lot, and that it continued there until he purchased the rear part of the Hughson street lot; that soon after he sold to Farewell (which was in April, 1890) he built a stable on the rear part of lot 3 on Hughson street, the west wall of which is on the line of that fence. That stable still stands, and its westerly wall approximates the line I have found as the dividing line between these two lots.

The evidence of Hill's son, who resided on the James street property with his father during all the time the latter occupied it, bears out his father's statements about the existence of the fence on the line of the west wall of the Hughson street stable and of its having been removed when that stable was built.

D'Arcy Martin, son of E. Martin, the mortgagee who foreclosed the Hill mortgage in June, 1899, and who is an executor of his father's will, says that after the foreclosure he entered the James street property from the Hughson street side and that there was no fence between the two lots.

Pennell, a tenant of part of the James street property beginning in 1893, and who bought out the livery business carried on in the stable on the James street lot, says that during his time access to the stable was by the alleyway leading from Hughson street as well as from James street.

Mittenthau, who, beginning in 1896, occupied part of the building on the James street lot, and who for nearly four years previously had been accustomed to visit another tenant of the property, speaks of going from that property by way of Hughson street, and that there was no such fence as is claimed by the defendants.