

to put the roadway in condition for traffic, by cutting through a hill near the lake, and filling in the marshy part of the road north of the hill; and work in the way of improvement and repair to the roadway has been done by the defendants year after year since that time.

In 1903, the defendants constructed a sewer leading from a point in the new road, north of the north limit of the plaintiffs' property, through the road as so opened to the lake, the north end of the sewer commencing in the east ditch of the roadway and bearing somewhat to the west as it proceeds to the south, so that the northerly portion of it is to the east of the centre line of the road, as so laid out, and the southerly portion of it is to the west of that line.

In 1905, the sewer having been damaged, the defendants repaired it.

The road has continued as a public travelled road from the time it was opened; and the traffic upon it has been partly on the land east of the line fence erected by the plaintiffs and partly to the west of it. The width of the old road north of the Haun road varies from 36 feet to 40 feet, while the part opened in 1899 has a width of 50 feet from a short distance south of the Haun road to the lake.

In 1911, the plaintiffs, asserting that the west boundary of lot 26 extended to the centre of the road as opened, erected a fence along the boundary so asserted, and the defendants removed it. . . .

It has not been made clear . . . that an allowance for road existed between lots 26 and 27; and there is also grave doubt as to the true location of the west boundary of lot 26. . . .

The plaintiffs, on whom rests the burden of proving that the line where they erected the fence on the roadway is the west limit of their property, have failed to shew where the westerly boundary of lot 26 lies, or that it falls within the boundaries of the land laid out in the roadway. Especially have they failed to shew that the fence which they erected, and which was removed by the defendants, was the westerly boundary of lot 26. Even had the plaintiffs established that line, there would still have to be considered the circumstance of the plaintiffs' predecessors in title having petitioned to have the road north of the Haun road opened to the lake shore; and whether their action and the action of the defendants in opening the road constituted a dedication of the road.

There was no complaint or objection on the part of the plaintiffs or their predecessors, except some objection to the loca-