

shift the boundaries of the road-allowance from the lines upon which they were supposed by the defendants to stand, then the defendants must accept the judgment of the tribunal to which they had submitted the matter in dispute. They surely could not be permitted to accept the result if favourable and to reject it if adverse.

If it were argued that the result might throw the whole of the travelled roadway outside the true boundaries of the road-allowance, and so subject the municipality to needless expense, the answer would be that it was not to be supposed that the Minister would fail to take such a matter into consideration, and, by the exercise of the power to amend the survey given to him by sub-sec. 4 of sec. 13, duly protect the municipality.

The effect of the survey and the Minister's order must be to re-vest in the adjoining owner any land of which he may have been dispossessed by the opening up of the roadway along an erroneous line, notwithstanding sec. 478 of the Municipal Act. So long as the provisions of the Surveys Act were not invoked, sec. 478 of the Municipal Act was effective; but, by resorting to sec. 13 of the Surveys Act, the defendants opened up the whole question as to the location of the true boundary-lines; and the defendants were now estopped from questioning in any Court the order of the Minister, and they could not be heard to say that the boundary-lines as laid down by McCubbin were not the permanent boundaries of the Base line, to all intents and purposes.

*Hislop v. Township of McGillivray* (1890), 17 Can. S.C.R. 479, distinguished.

The plaintiff was entitled to a declaration that McCubbin's survey was final and conclusive as establishing the boundary-line of that part of the road-allowance commonly called "the Base line," and to an injunction restraining the defendants from trespassing upon the plaintiff's lands as established by that survey, and from tearing down or removing the plaintiff's fences thereon, and for the damages which the plaintiff had sustained by the wrongful acts of the defendants in tearing down the fences erected since the Minister's order, with a reference to the Local Master to fix the damages if the parties cannot agree upon a sum, and for the payment by the defendants of the plaintiff's costs.