

tered plan of part of lot 89 of the parish of St. Boniface as opening out on Marion Street, being 66 feet wide and extending northwards a length of 165 feet to its closed end. The by-law also provided for the sale of separate portions of the street at named prices to the respective owners of the adjoining lots. The applicant was the owner of a lot fronting on Marion Street, bounded on the west by the street in question and extending back the full length of the street. He had a house on the lot facing on Marion Street and another on the rear end of the lot fronting on the street in question, which was the only means of access to it.

The town had never done any work or expended any public money for improvements on the street in question or assumed possession of it in any way.

The reason urged on behalf of the corporation for the closing of the street was that it was of no public benefit and was a source of useless expense, but the trial judge found that the true reason for the action of the council was disclosed in the report of a committee adopted by the council which stated that the street in question had not been extended northerly by the neighbouring owners, although Marion (the original owner of parish lot 89) had a verbal arrangement with them to that effect, that it would be equitable to close the street and return the land to Marion or pay him the price which could be obtained by a sale, also by the passage of another by-law three months afterwards providing for the opening of a lane 20 feet wide to the rear of the tier of lots fronting on Marion Street, and a lane of the same width running through the centre of the "blind street" in question, and to acquire the necessary land by expropriation.

*Held*, the purpose of the council in passing the by-law objected to was to aid Marion in retaking the land covered by it on obtaining the proceeds of a sale of it, and the passing of the by-law was therefore an abuse of the powers conferred on the council by the Municipal Act, and it should be quashed for that reason. *Re Morton and Township of St. Thomas*, 6 A.R. at p. 325, followed.

Marion, having registered the plan shewing the street in question and having sold to Kundsén a lot lying alongside this street, was bound by the plan, and could not, without the consent of Kundsén and others who bought on the strength of the existence of the street, close it up and retake the land, and what he could not do himself the council had no right to do for him.

*Held*, 1. Under s. 667 and sub-s. (d) of s. 693 of the Municipal Act, the power of a council to sell roads stopped up by them is restricted to original road allowances and to public roads which have been duly dedicated as such and over which the