

John's Little Acre

—BY L. M. POWELL, Land Surveyor, Hamilton, Montana—

One of the areas of discussion that the Association representatives are having with the legal profession in the seminars and talks that are being presented around the province, is "Adverse Possession or Misdescription". This also seems to be misunderstood among some of our own members. The following article which appeared sometime ago in the ACSM Bulletin, clearly shows that the "monuments" govern (in this case buggy axles) and although many descriptions were from time to time in existence for the property, the property remained the land enclosed by the buggy axles. No adverse possession was in existence as no boundary was crossed, the article deals with the misdescription of the property only, and the monuments governing. - L. Petzold, Chairman, Education Task Force.

In the beginning, God created Heaven and Earth—and the great flood and the Ice Age passed, and there were stone and soil and mineral on John's little acre.

In 2500 B.C., by a strange mutation, surveyors were created and their work became a profession. At the time, doctors were still rattling bones and

chanting to cure their patients, and lawyers were meting out justice on an "eye-for-an-eye, tooth-for-a-tooth" principle. And each spring the Nile destroyed the survey markers and they had to be re-measured so taxes could be levied, and trees grew on John's little acre.

Years passed and, in England, the common law was established and it was good—it was horse sense. To fulfill the claim of land ownership, metes and bounds descriptions were prepared, such as,

Beginning on the bridge across Spring Creek at the west edge of the town of Devonshire, England; thence north along the center of Spring Creek to the stone fence along Jones's south line; thence west along said stone fence to a lone oak tree; . . .

and once each year the people of the village walked the property lines and each owner performed a ritual which laid claim to his land, and flowers grew on John's little acre.

The compass was invented, the world became round, sailors navigated, America was discovered, the Mayflower sailed, and buffalo grazed on John's little acre.

The Colonies were formed and wars were fought; Washington and Lincoln were surveyors; and birds sang on John's little acre.

In 1803, the Louisiana Purchase was made which placed a value of 4c on John's little acre. The sectionalized system of land surveying had been in use for some time when the surveyor entered the Bitterroot Valley in 1872 and determined that Section 23, T. 6N., R. 21 W., P.M.M. included John's little acre.

And stones were set and witnessed every half mile around Section 23 and the Government said:

"this is good and proper, and these markers shall govern the perimeter and the aliquot parts of Section 23 regardless of errors in the original measurements."

and the SW $\frac{1}{4}$ of Section 23 included John's little acre.

In the year 1890 a homestead was patented to a man named Bill which covered the SW $\frac{1}{4}$ of Section 23, and Bill thought he owned exactly 160 acres bounded by lines bearing due north, south, east, and west, but he didn't; the

acreage was short and the lines crooked, but it still included John's little acre.

Now John was a friend of Bill's, so when he moved to the Bitterroot Valley in 1895, Bill deeded him an acre of land for his homesite. The two men agreed on the boundaries, paced the distances, and drove buggy axles on the four corners. They then estimated that the SW corner was about 200 yards NE of the SW corner of Section 23, and a point of beginning was established for John's little acre.

In 1898 John decided to get married and mortgaged his acre to acquire funds to improve the house. The bank required a survey of the property, so a man with a compass and chain was hired. Due to a deposit of iron ore near the SW corner of Section 23, his bearings were erratic, and since the area was brushy, his distances left something to be desired, but the buggy axles were there and still marked the true boundaries of John's little acre.

By 1910 the orchard boom was on. The area had been cleared and planted to apple trees. The bearing trees had been cut and the section corner stone covered with soil. An orchard development company had purchased Bill's 160 acres and directed their surveyor to locate the exception which was John's little acre.

The surveyor, assuming that the section corner was lost, found the four buggy axles and using the erroneous data from the previous survey, set a pipe to mark the SW corner of Section 23. Using a transit and steel tape, he retraced the angles and distances between the four buggy axles and prepared a new description (the third) for John's little acre.

During construction of a county road in 1920, the corner stone on the SW corner of Section 23 was found and reset beneath the road surface. In 1921 the four buggy axles were tied to the true section corner and a new description (the fourth) prepared for John's little acre.

In 1960, a theodolite was used, and the bearings corrected slightly on John's little acre. In 1970, an electronic measuring device was used and the distances corrected slightly on John's little acre.

And so it came to pass that by 1970, John's little acre had numerous descriptions, but it had in fact never changed. The true boundaries were still marked by four buggy axles, the bearings and distances bore little resemblance to the original deed, the acreage was actually 1.265 acres, but it was still John's little acre.—

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BROKEN SEAL?

Here is how Derek Graham's problem was solved.

Mr. John Eby
Newsome and Gilbert Limited
14 Panagar Street
Elmira
Ontario N3B 1C9

Dear Sir:

We wish to thank you for the prompt attention from yourself and from Mr. Keijo Laurila in your Toronto office in repairing our seal, the numbers of which had broken and chipped off. Your service was most satisfactory.

Yours very truly,

Derek G. Graham, O.L.S.

PLAN TO ATTEND
YOUR REGIONAL
GROUP MEETINGS