

The Lawsons continued to live on the property until 1897, when they rented the house and went to live on Sherbourne street, returning to Surrey place in 1904. In the meantime the house was occupied by a series of tenants.

In 1894 or thereabouts the ashes and garbage deposited at the corner of the lane had become a considerable nuisance, and the Lawsons complained to the city officials. The result was that from then onward the occupants of the northern houses were required to place their garbage and ashes in receptacles at their back doors in the alleyway. The scavenger, then, backing into the lane, went up the alleyway and removed the ashes and garbage.

I am asked to treat as an assertion of exclusive title to the lane. I do not think this is so. What was done was not by way of assertion of title; it rather constituted an admission of the rights of the occupants of the houses at the north, and the city officials required this right to be exercised in a way that would not cause a nuisance.

As the process of garbage removed evolved the practice of placing ashes, etc., to the rear was largely discontinued, and the ashes were carried in most instances, from the front cellar entrance and placed upon the street. This again has no doubt contributed to the Lawsons' feeling of proprietorship.

Apart from what has been stated, there are one or two specific acts much relied upon. One of the owners stored a launch in the lane in 1905, during the winter months. During the winter of 1909-10 he stored a somewhat larger boat there. During these times the gate was no doubt kept closed.

Some time about 1904 the city started assessing the owners of the fee in lanes which had never been formally dedicated to the public. About that time Mr. Dickey, on receiving his assessment notice, came up and looked at the property, no doubt going upon it. This is relied upon as an entry which would stop the statute from running.

Some other minor incidents have been mentioned, which appear to me to have no bearing whatever upon the dispute.

I am not here concerned with the question as to whether there ever was an easement in favour of the northern houses, nor am I here concerned with the question whether that easement had been extinguished. The dispute before me is, I think, quite apart from these questions.

When Mr. Baird recently sold to Mr. Bullen, Bullen undertook to erect his apartment house up to the northern boundary of his own land. He then found the so-called lane