Elizabeth Ross, the mother of Mary Adamson, was the owner of a block of land bounded on the west by John street, on the north by Elizabeth street, on the east by Bayfield street, and on the south by the lands of one G. Lount. This block consisted of lots 16 and 17 on the east side of John street and lots 10 and 11 on the west side of Bayfield street. On the 9th December, 1903, Elizabeth Ross conveyed to Mary Elizabeth Perkins the westerly 37 feet of lot 17, the conveyance being registered as No. 7908; and William Adamson derived his title by various mesne conveyances from M. E. Perkins.

The right of way which the respondent company claimed as appurtenant to the land owned by it, which consisted of a part of the block owned by Elizabeth Ross, lying to the east of and separated by lots owned by other persons from the 37 feet conveyed to M. E. Perkins, was a right of way over a strip of land 10 feet in width extending from John street to Bayfield street and forming the southerly 10 feet of the north halves of lots 16 and 11.

The respondent company's right to the way over the 10-foot strip from Bayfield street to the 37 feet was not disputed; but the appellants contended that it ended there, and that the southerly 10 feet of the 37 feet were not burdened with any right of way over them.

It was clear that the intention of Elizabeth Ross was to subdivide her block of land into lots, and that there should be a lane 10 feet wide extending from John street to Bayfield street for the use of the lots which she intended should abut upon it.

The proper conclusion was, that Elizabeth Ross definitely set apart as a right of way, for the use of all the lots into which she should subdivide her block and which should abut upon it, the strip of land 10 feet wide, extending from John street to Elizabeth street, the southerly 10 feet of the north halves of lots 11 and 16.

That conclusion was sufficient to support the judgment of the County Court; but it might also be supported on the ground that the effect of the conveyance from M. E. Perkins to A. B. Wice (No. 10197) was to extend the easement to which she was undoubtedly entitled in respect of the other land then owned by her so as to include the southerly 10 feet of the 37 feet which had been conveyed to her by No. 7908.

There is no such thing as an easement in gross, in the proper sense of the word. The grantee of an easement must, at the time of the creation of it, have an estate in the tenement to which the easement is to be appurtenant; and that requirement was satisfied in this case.