

At the trial it was proved that defendant and his predecessors in title had owned and occupied lot No. 16 for more than 80 years. The witness McKellar lived in the Billings' residence for 18 years, from early in 1857 to the year 1874. Mr. Charles M. Billings, son of the late Charles Billings and brother of defendant, carried the history of the *locus in quo* from 1874 down to the present time.

A road was originally constructed near the southern boundary of lot 16. In 1860 it was straightened; and, from that time on, until at any rate, quite recently there has been no material change. In 1860 the fence which had theretofore been to the south of this road was moved to the north; a ditch was constructed at the side of the road; and this road, for many years, was the only means of access to the house from the River road, which lies to the west of the railway track.

About 1854, the St. Lawrence and Ottawa Railway was constructed, crossing this private road. This railroad is now operated by the Canadian Pacific Railway, and is called in the evidence the Canadian Pacific R^w. Where this railroad crossed, the road gates were erected, and these were generally closed. Until quite recently the gates were maintained, and occasioned no difficulty, as there was no travel save by those going from the River road to the residence.

In 1892, the late H. O. Wood laid out lot 17 in building lots, and, according to his plan, laid out a street called Billings avenue, 25 feet wide, to the north of lot 17. This street was immediately to the south of the old farm road upon the Billings property, which was immediately north of the division line between 16 and 17. The plan, Exhibit 5, shewed the location of this street of the old private road and of the adjoining lots.

From some time shortly after this date, the two adjoining roads have been used without much distinction. The travelled portion of the road had been the middle of the 40 feet. This portion was said to be 12 feet wide, leaving a margin of 14 feet on each side. The gates were still maintained at the Canadian Pacific R^w. crossing, and were not removed until about 4 years ago, when, owing to the increased traffic arising from the erection of some houses to the east of the Canadian Pacific R^w., the travel had increased to an extent which rendered the keeping of the gates closed