servient tenement of the right claimed; the evidence of user sufficient to raise the presumption of a lost modern grant depends upon the circumstances of each particular case and where established non-user not amounting to abandonment does not destroy it: *Watson* v. *Jackson* (1914), 19 D.L.R. 733, 31 O.L.R. 481, referring to *Tilbury* v. *Silva* (1890), 45 Ch.D. 98, and *Re Cockburn*, (1896), 27 O.R. 450.

An easement by way of lost grant may be acquired by long user of a highway for carrying a stream across it for milling purposes, though the right could not be sustained as a prescription at common law, or under the Limitations Act (R.S.O. 1914, c. 75, s. 34), for want of continuity of user: *Abell* v. *Village of Woodbridge* (1917), 37 D.L.R. 352, 39 O.L.R. 382. This decision was reversed by the Appellate Division, Middleton, J., dissenting: see 15 O.W.N. 363.

It has been decided that the Statute of Limitations does not apply to easements: *Mybel* v. *Doyle*, 45 U.C.Q.B. 65 (followed in *Ihde* v. *Starr* (1909), 19 O.L.R. 471, 21 O.L.R. 407); *McKay* v. *Bruce* (1891), 20 O.R. 709; *Bell* v. *Golding* (1896), 23 A.R. (Ont.) 53 at p. 489. Consequently, there is no bar under the statute for not bringing an action to prevent disturbance of the right. But an easement may be extinguished or abandoned. And it is a question of fact in each case whether there has been an intention to abandon, and an abandonment of, the right.

Mere non-user is not of itself an abandonment, but is evidence with reference to an abandonment: *Jones* v. *Township of Tuckersmith* (1915), 23 D.L.R. 569, 33 O.L.R. 634 (reversed by Supreme Court of Canada: See memo 12 O.W.N. 368, 13 O.W.N. 383); *Publicover* v. *Power*, 20 D.L.R. 310, referring to *Ward* v. *Ward*, 7 Ex. 838; *James* v. *Stevenson*, [1893] A.C. 162 at p. 168. And so where there was continuous non-user and non-claim of a right of way accompanied by adverse obstruction by the erection of buildings upon the land over which the right was alleged to exist for eleven years, it was held that the owner of the dominant tenement had abandoned his right: *Bell* v. *Golding*, *supra*. Whether the acts done are done by the owner of the servient tenement acquiesced in by the owner of the dominant tenement, or by the owner of the dominant tenement himself, makes no difference. The abandonment may be presumed in either case if the facts are sufficient: *Bell* v. *Golding*, *supra*. And the owner of the dominant tenement may so use it as to prevent him from successfully maintaining an action to assert his right, in which case the servient tenement is discharged from the burden of the easement: *Anderson* v. *Connelly*, 22 T.L.R. 743.

An easement may also, of course, be released by conveyance. And if the dominant tenement is mortgaged, the mortgagor may release the right as far as he and those claiming under him are concerned, but the right will still subsist in the mortgagee. On payment of the mortgage and reconveyance of the land the right of the mortgagee disappears, and the easement is completely extinguished: *Poulton* v. *Moore*, [1915] 1 K.B. 400. See Armour on Real Property, p. 530.

An easement of way ceases upon the union and servient tenements: *Blackadar* v. *Hart* (1917), 35 D.L.R. 489; *Rosaire* v. *Grand Trunk R. Co.* (1912), 42 Que. S.C. 517. An easement also comes to an end when the purposes