

chambault street. Each of these ways was used to some extent for public traffic. There was a gate on the west side of Lake or Vallee road at its junction with Bissonnette avenue, placed there, it is said, by the defendant Bissonnette, with the effect of closing the entrance of Bissonnette avenue into Lake or Vallee road, but, notwithstanding this gate, traffic from the latter way down Bissonnette avenue was kept up at intervals.

On the 5th August, 1908, the plaintiffs finally passed a by-law opening up and establishing Bissonnette avenue and a portion of Archambault street running south from Bissonnette avenue to Campbell avenue, as shewn on the plan, and declaring them to be public highways, thus assuming them as provided by sec. 39 of the Surveys Act, R. S. O. 1897 ch. 181.

Following upon the passing of the by-law, the gate and fence obstructions placed there by the defendant Bissonnette across the entrance of Bissonnette avenue into Lake or Vallee road were removed, but were replaced and the gate locked by the defendant Bissonnette; and thereupon this action was commenced.

The answers to the action set up by the defendant are chiefly of a technical nature. He is not an owner or person interested in the lands covered by the plan. He sets up in a vague way a claim as lessee under Josephine Cantin or her husband, but the latter never had any title, and the former could not be heard to allege that Bissonnette avenue and Archambault street were not highways, and made so by the plan; for not only was she a party to the plan, but she has sold and conveyed to purchasers a number of lots fronting some on the one and some on the other side of Bissonnette avenue, and some of them adjoin or abut upon Archambault street, and these have been registered in the registry office. She could, therefore, grant no right or title to the highway to the defendant or give him any status to contest the plaintiffs' rights.

Then it is said that the alterations made in the plan after it was signed by the owners, but before registration, rendered it of no validity. No person whose land is affected by the plan is shewn to have objected to the alteration, and from Cantin's evidence it seems that Baird had general authority from the owners and others interested to do whatever was required in order to register the plan. Apart from this, however, the act of deleting the subdivision to the north of the land now covered by the plan furnished no ground of objection on the part of the owners of the latter portion, unless there was some agreement or understanding that the plan as originally prepared was to be registered as a whole or not at all, of which there is no evidence.