premises hereby conveyed to the north to a depth of 76 feet from Leuty avenue and subject to a right of way for the party of the first part and the owners or occupants of the adjacent premises to the north over the northerly 2 feet 6 inches to a depth of 76 feet from said avenue of the premises hereby conveyed."

The 6-feet right of way was over the defendant's land, and the 2½-feet right of way—that in question—was over the plaintiffs' land.

Shortly after the sale of No. 26, Atkinson sold No. 24 to a stranger; and, by deed of the 23rd September, 1915, conveyed to the defendant his remaining two parcels of land—the L-shaped piece—and the defendant erected at the south-westerly end thereof three garages and let them for storage of automobiles. He claimed for his tenants the right of way over the plaintiffs' strip of 2½ feet, basing his claim on the above-quoted words in the conveyance from Atkinson, as creating a right of way over the 2½-feet strip appurtenant to the premises where the garages stood.

The grantee did not execute the conveyance containing the words relied upon, and it could not in strictness be said that there was a re-grant; but, assuming that the instrument contained a re-grant of a right of way, the question was, to what land was such right of way made appurtenant? The defendant contended that the words created a right of way appurtenant not only to the land adjacent on the north to the 76-foot strip, but also to the other lands then owned by Atkinson, namely, that parcel lying westerly and south-westerly of the plaintiffs' land, on the southerly portion of which the garages were erected.

The re-grant here made no reference to the westerly premises, and the conclusion must be that it was not intended to create a right of way appurtenant thereto. That conclusion was fatal to the defendant's contention.

The re-grant must be read as a whole, and its legal effect was to limit the right of way to Atkinson and other owners or occupants of the adjacent premises to the north.

The defendant claimed the right to use the way for the benefit of his westerly premises or to use it as a way to the adjacent premises to the north for the purpose of thereby reaching his westerly premises. He was not entitled to either of such users.

The appeal should be dismissed with costs.

RIDDELL, J., in a written judgment, agreed that the appeal should be dismissed with costs; but said that he was not to be considered as holding that the right of way could not be used at all in connection with the back premises; the only matter under