

rebuilding the road near the bridge. There was a special meeting for consideration of the report on the 13th of May and it was then resolved to do the work by "statute labour tax," and that it be done "under the supervision of Robillard" as pathmaster for that section where the road is used." The minutes of 27th August, 1891, contain a resolution to call for tenders for a bridge—said to be another bridge upon the road in question. The minutes of October 8th, 1891, record the appointment of Xavier Pilon to oversee the expenditure of the poll tax in the part of the township where he resides and give acknowledgments, etc.

The town of Sudbury succeeded to the rights and obligations of the township when this territory became a part of the town. When that happened has not been shewn—but it was evidently before 6th August, 1896. From that date the town records shew occasional expenditures on road and bridge amounting to about \$380.

The evidence of Nathaniel Bailey, who was in charge of streets in 1896-7 and 8, shews that every year work was done from Pembroke street to John's farm. That owing to overflows they had always to make repairs and fill up at each end of the bridge.

John Frawley, Lawrence O'Connor and Robert Martin shew general supervision and repair of the road and bridge for several years.

I am clearly of opinion then that on the 20th of July, 1896, when the certificate approving of plan M. 59 was endorsed, the disputed land—the road in question—had become and was a common and public highway of and within the town of Sudbury.

I dealt with the question of gates at the trial. The only reliable evidence was as to gates north of the bridge, and so north of the land in question. If the evidence was pointed to the question of dedication it fails, as the evidence of intent and dedication is clear and it is not suggested that Robillard or his grantees maintained or sanctioned a gate, and Robillard's evidence is clearly the other way. There never was any interruption of user and time does not run and obstructions do not count as against the Crown. Now as to the question of the effect of the alleged approval by the council. Does this act effect a conveyance or surrender of the highway or estop the municipality? Clearly not. As to estoppel, I am still of the opinion, expressed at the trial, that there may