

31st May 1894.

Quebec.]

CHAMBERLAND V. FORTIER.

Action "negatoria servitutis"—Right of passage—Private road—Government moneys in aid of—R. S. P. Q. Arts. 1716, 1717 and 1718—Arts. 407 and 1589 C. C.

The plaintiff, proprietor of a piece of land in the parish of Charlesbourg, claimed to have himself declared proprietor of a heritage purged from a servitude, being a right of passage alleged to be claimed by his neighbor the defendant. The road was partly built with the aid of Government municipal moneys, but no indemnity was ever paid to the plaintiff, and the privilege of passing on said private road was granted by notarial agreement by the plaintiff to certain parties other than the defendant.

Held, reversing the judgment of the Court of Queen's Bench for Lower Canada (Appeal side), that the mere granting and spending of a sum of money by the Government and the municipality did not make such private road a colonization road within the meaning of Art. 1718 R. S. P. Q.

Appeal allowed with costs.

Amyot, Q.C., for appellant.

Languedoc, Q.C., for respondent.

1st May, 1894.

Quebec.]

BELL'S ASBESTOS CO. V. JOHNSON'S CO.

Action en bornage—R. S. Q. Arts. 4153, 4154—Straight line.

Where there is a dispute as to the boundary line between two lots granted by patents from the Crown, and it has been found impossible to identify the original line, but two certain points have been recorded in the Crown Lands Department, the proper course is to run a straight line between the two certain points.—R. S. Q. Art. 4155.

Appeal dismissed with costs.

Stuart, Q.C., and *A. Hurd*, for appellants.

Irvine, Q.C., and *J. Lavergne*, for respondents.