

**THE MILL ROAD.**

(Continued from Third Page.)

James Montgomery said he had known this road as a public road.

Jas. Carr said he used to haul water for years for his house, and never asked permission to do so.

Jeremiah Bragdon.—I have lived in Northampton and Woodstock about 38 years. Before I moved here I saw teams go up and down the road. Don't think the road has varied but very little. The road was for trucking, for hauling lumber and wood, and in fact, for everything. Road was used both in summer and winter. Have seen towns people trucking over that road, and this use has been continuous. From the Kelly building up I never saw logs piled on the north side, excepting this spring. Below the mills I have seen logs occasionally piled. I hauled stone for the Woolen Mill and no one obstructed me.

Mr. Gregory.—I would give you leave, now. Witness.—Thank you, Mr. Gregory. The old lady gave me leave and that's better than yours.

Owen Kelly.—The great fire in Woodstock took place in April 1860. Before the fire wooden buildings faced on King street. Have lived in Woodstock for sixty-five years. Have known this road to be there all that time, and the public to use it without let or hindrance. I knew Craig to pile up logs, and they stayed there for a few weeks sometime, but I finally objected and Craig removed them, because it obstructed the way to get into my property from the rear. Some of Wm. Craig's teamsters piled the logs. It was ten or twelve years ago. I never saw any piled there till Craig put them there. Craig, when I complained, said he did not wish to obstruct me, he had been in a hurry and only put them there for the time being.

To Dr. Stockton, Mr. Craig did not claim to have any right to pile the logs, and as soon as I mentioned it, he removed them.

Mrs. Phoebe Noddin formerly resided in Woodstock. I lived in Woodstock from 1830 till after the fire of 1860, and lived in the Riley house, back of the Kelly house. I am a sister to Mr. Riley. Had no other passage to get to my house, excepting by Mill street. It was used as an ordinary street, every day more or less. Had not been on the road for two or three years. It then seemed about the same as when I used to use it.

B. R. Watson, photographer, took photographic views of the property in the first week in May last.

His photographs were produced to which Mr. Gregory objected.

The Judge received them. I took the views from the verandah and from the Hale buildings.

Oddur N. Foster said he lived in Woodstock in 1836, and left in 1863. I knew these properties in question. Lived next to what is called the Kelly property, on the Foster lot. I used the road a great deal for hauling wood from the country, rocks and sand, rough sod. My father carried on a bakery, all our flour, heavy goods, were taken in that back way. We baked one barrel of flour a day for the troops. In taking goods in to manufacture the back street was used. It seemed to me on looking over the road that it was crowded up a little towards the English line.

Jas. Miller said his recollection went back 55 or 56 years ago. He had hauled tow boats to the points at the foot of the road. The road was free to everybody.

Amaziah Day was a truckman of the town and used the road as a public road.

G. W. Vanwart said that entrances to the rear of the brick building which he at one time occupied, were used and never blocked up, nor did he have any difficulty in getting in. Had seen logs on the north side of Mill street but only temporarily.

Jas. McDougall had lived in Woodstock about thirty-one years, and had used Mill street as a truckman during those years. No objections was ever made to me as to using this street.

To Mr. Carvell—I never saw the road blocked up, as much as it was last spring. I have seen logs rolled on the upper side but not to remain any time.

F. H. Hale, M. P. had lived in Grafton for past twenty-five years. His present building on the West of the Woolen Mill was burned and rebuilt about two years ago. I hauled lumber up that road about thirty years ago. It was used by the public. As far as I know it has been used by the public ever since. We have hauled a great deal of lumber on it. Messrs. Craig, Rankin and other mill owners did work on the road. The road was wide enough for two teams to pass. He had done work on this road before he had built the steam mill in 1877. It was 1875.

John S. Leighton entered in possession of building in question in 1874. The brick building at the west end was a foot and a half or two feet from the English line. He sold the building to Mr. Vanwart in 1885. Had entrance to the cellar from doors on the inside of the building. Don't remember forbidding Mr. Moore to haul deal down that lot. I never forbade him hauling on the road. I occupied the shop between the building and

the English line, in walking along it. I perhaps walked along it 5000 times. The whole foot travel was next the side of the building.

Harry Jones, Engineer for the Woolen Mill Co., knew the road. I saw the whole three of defendants Fred, George and Miles Moore piling logs on rear of Woolen Mill property. I saw George and Fred doing this about the last of hauling. They piled the logs in front of the engine room. The pile was about eight or nine feet. Seven or eight men were working for them. I heard Fred Moore say "Put two or three more loads, there, don't half do it, pile them up high." By piling the logs a door opening from what is called the Kelly shed, was split off its hinges. I was unloading a load of wood over the logs. Miles Moore came along and ordered us to get out of that, saying we had no right there. That mode of throwing the wood in was the only means we had of getting the wood into the engine room. I remember on one occasion after Moores got done hauling, of the road being completely blocked from the north to the south side.

The next witnesses examined were Samuel Parsons and Mr. Willis of the Woolen Mill Company. Their evidence was on the same line as that of Andrew Myles which follows.

Andrew Myles—I am a director of the company, secretary-treasurer and manager of the business. On the 8th February I went back of the mill building, knowing logs were piled up high, took Mr. Willis and we took measurements of the piles of logs as against our place. Here witness gave description of the logs which were piled up against his property. On the 27th of February, Fred Moore, C. Miles Moore and Chas. McKanna began piling logs along our property. Mr. Willis and I said we wanted them taken away. Fred Moore said he hadn't time to talk with me. On the 28th April the narrowest part of the roadway was five feet six inches. That was almost directly opposite the engine room door. One pile was nine feet high and the base about sixteen feet. Witness read extensively from notes which he made at the time, referring to conversation with Mr. Carvell acting for Mr. Moore, who said that if a certain wood pile was removed, put there by the Woolen Mill, he on behalf of Mr. Moore would promise to remove logs. This was in February last.

On Saturday morning Mr. Gregory moved for a non suit on the ground that the alleged grievance was in obstructing a public highway. As a matter of law in the matter of a public highway no single individual can maintain an action for obstructing a public road, excepting in so far as he sustains private injury. The instance to which the plaintiff refers in which his road was blocked, was one on which he did not wish to use the road. When he speaks of the highway being obstructed, and only five feet in width there is no instance of there being any hindrance to the plaintiff in passing down the road. Again no highway could be created between lessees, but only by the action of the lessor himself. There was no evidence of dedication, nor of intention to dedicate, nor is there any evidence of acceptance on the part of the public. He also claimed that if there was a road for the public the present road was not that road. Whatever use the plaintiffs had for that road, they had simply a license, and no action could be maintained for taking that license away. The alleged obstruction was simply a revocation. We do not deny that we piled lumber up, but we claim that we had a perfect right to do so.

Mr. Connell agreed with regard to a private party taking an action for obstructing the road, that such an action was by indictment. Our contention is that a principle of law specially deals with the case of an adjoining land owner when they have a public highway running between them. In such a case a land owners is entitled to an action. By the lease of 1877, the lessor bound the lessees to keep open the Mill street. There is evidence of the dedication of the road by a plan incorporated in a document, and of the fact of the user for upwards of sixty years. Acceptance of the road was evidenced by the public travelling on it for upwards of sixty years. Moreover Mill street was expressly named in the owner's deed to Miles Moore.

Mr. Gregory contended that as a matter of fact there were two streets, that along the English line, and another nearer the bank of the river. He then offered a proposition, if after consultation his clients could agree. It was that a verdict be entered for the plaintiffs on the evidence already given, or a construction by the court that the English line is the line defining the road, with leave reserved to enter for the defendants, if it is not. Mr. Connell and Dr. Stockton asked time to consider the proposition, asking that Mr. Gregory also consult with his clients, so that the offer be made so that it will be final if accepted.

His Honor said the non-suit was refused. After consulting with his clients, Mr. Gregory announced that he could not make the offer now, as his clients concluded that their case might thereby be prejudiced.

Mr. Carvell then opened the case for the defendants. He did not think it would be necessary for them to produce evidence that no trespass on plaintiffs had been committed as by their own admission their land only extended two and a half feet beyond the

building at the narrow end and got narrower towards the river. Then their wood was piled next the building, so defendant's logs could not be on plaintiff's premises. As for the user of the public road, no user would be sufficient without the act of land lord or owner of the fee. It would be shown that some time previous the Woolen mill people did not claim that they had any land, and that it was only recently that they set up that claim. As to any conversation between Fred Moore and Mr. Myles, Mr. Miles Moore was the owner of the property and anything Fred Moore said was not binding on the owner. Fred Moore was simply there as a hired man.

Albert Sawyer was the first witness for the defence. He possessed the mill property in 1877 or 1878. The mill road ran down from King street, straight, for a while and then swept up towards the bank of the river leaving a space toward the English line three or four feet. He occupied the space between the brick building and the Smith and English line. He piled logs on both sides of the road, whenever he chose.

Was taking the line to be a continuation of the mill building. He thought the whole property was the mill's and that there was no public way, and no one had a right there but himself.

To Dr. Stockton—He was unable to state whether the brick building was there when he came or not. He rolled logs off on both sides of the road at his convenience. He did not block up the openings to the brick building. He considered that he owned the whole land from King street down. He did not know anything about the bank of the river being filled in by excavations. The conversation with Mr. Parsons and Miles was not about piling wood on the side of the road next the stream.

Fred Lindow had lived in Woodstock 26 or 27 years. I lived in the Woolen Mill building, in the portion next the main river. He knew of logs being piled across the lot next the building, so that a team could not be driven in. He had noticed them there lots of times on both sides of the road. He did not notice any change of the road when he last visited the road six years ago, from when he lived in the building. He thinks he remembered of some of his folks complaining to Mr. Kelly of the logs being piled up.

Geo. Lee had lived on Mill street. He had to throw wood over logs which were piled on the north side of the street. He remembered the planking been put down in 1881.

Henry B. Smith travelled on the road as early as 1859. He thought the road was in about the same position now as it was then. If anything the road was closer to the mill then than now. To Dr. Stockton.—The bank of the stream has not been built out since 1892. He was summoned as a jurymen, and was objected to by Mr. Connell.

The court adjourned till the 16th of November at 10 o'clock the judge and counsel on both sides having peremptory duties elsewhere in the meanwhile.

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FRED H. STEVENS,  
Editor Hartland Advertiser.

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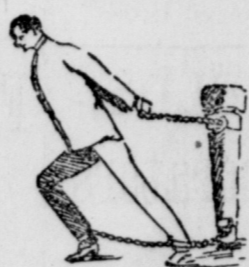
Mrs. E. Winkworth, Morrison Street, Niagara Falls, Ont., says: "I was attacked by kidney trouble about two years ago, and steadily grew worse until November last, when I became so low that I thought I would live only a short time longer. The doctor here pronounced my case a complication of Bright's disease and dropsy, and said I could not get well. Dr. MacDonald advised me to try Doan's Kidney Pills as it was my only chance to get well. I did so and now can truly say that I owe my life to following his advice for I am strong and well to-day. My life has been spared to my three children and I think Doan's Pills are worth their weight in gold."

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The Andover exhibition was a success, the day was fine, a big crowd was present and the products of the district were fairly represented. The teams of Alexander Henderson, George Yon, Graham, Porter and Bedell gave an exhibition of their strength. The hauling prize was won by the team of Alexander Henderson. Dinner and tea were served by the friends of the Methodist church and about eighty dollars were taken.

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