

and commons, laid out thereon, for and during the period of five years from the registration of said plan." The certificate was signed by the mortgagors, mortgagee, and the mayor of the town of Toronto Junction.

On June 29, 1890, an agreement was entered into between the corporation of the town and the mortgagors providing that the land in question should, subject to the approval of the Lieutenant-Governor, be added to the town of Toronto Junction, to be subject to the assessment as therein provided for. One of the provisions in the agreement was that, save and except as to the Weston road south, the streets, avenues, and roads laid out on the plan should not be held to be dedicated as highways by reason of the property being annexed to Toronto Junction, or by reason of the assessment per foot frontage, or by reason of the corporation laying the water main on Mary avenue, and that the corporation should not be bound to adopt or be responsible for the same as highways until dedicated and accepted as such by by-law.

A by-law was passed by the town council on 22nd December, 1890, by which the lands were added to the town, subject to the approval of the Lieutenant-Governor, upon certain terms:—(a) That the lands should not be assessed for more than \$3 per foot frontage, until sold, etc. (b) That the owners should have the right to remove all timber, gravel, or clay from off all roads, streets, lanes, or avenues laid out upon the property, according to plan 1067, excepting the Weston road south. (c) That the town corporation should not be held to have adopted or be bound to adopt or accept any of the roads, streets, lanes, or avenues, as highways, except the Weston road south, and should not be responsible for them as highways until dedicated and accepted as such by by-law.

None of the lots on these plans was sold or conveyed by the Birneys and John A. Scarlett.

Their mortgages to the vendors being in arrear, the latter on the 7th January, 1892, began an action for foreclosure, and a final order of foreclosure was issued on the 5th September, 1893.

In the judgment and final order the streets referred to in the plans were, with the exception of the Weston road south and the Albany road, included in the foreclosure.

After the final order the plaintiffs in that action obtained an order from the Judge of the County Court of York dated 15th December, 1897, amending registered plans 839 and 1067 by doing away with certain blocks and lots thereon and by closing up all the streets named upon such plans except