

5. Further directions and subsequent costs reserved until after Master's report.

Thirty days' stay.

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HON. MR. JUSTICE MIDDLETON.

JANUARY 15TH, 1914.

RE JONES AND TUCKERSMITH.

5 O. W. N. 759.

*Way—Highway—By-law Closing Same—Dedication—No Acceptance by Municipality—Surveys Act, 1 Geo. V. c. 42, s. 44—Registry Act, 10 Edw. VII. c. 60, s. 44, s.s. 6—Quashing of By-law.*

MIDDLETON, J., *held*, that where a highway had been dedicated but never accepted by the municipality the latter could not by by-law assume to close the same and sell it.

Motion by certain ratepayers of the township of Tuckersmith to quash by-law number 3 of 1913, being a by-law to close and dispose of part of Mill street in the village of Egmondville.

W. Proudfoot, K.C., for applicant.

R. S. Robertson, and R. S. Hays, for the township.

HON. MR. JUSTICE MIDDLETON:—Upon the argument of the motion there was some confusion as to the facts. Supplementary material has now been put in, satisfactorily disposing of the matters in doubt.

The village of Egmondville is an unincorporated village in the township of Tuckersmith. It forms part of lots 10 and 11 in the second concession, Centre street corresponding with the division between the two lots. According to plan registered on the 8th September, 1857, Mill street extends north from Bayfield street through Queen street one block west of Centre street. On this plan it does not extend north of Queen street.

On the 16th June, 1875, a by-law was passed by the township council "to open up certain streets known as Water and Mill streets in the village of Egmondville, being composed of parts of lots 10 and 11 in the township of Tuckersmith as shewn in the original map of the said village of Egmond-