

exist only so long as there may be necessity for its use. If, therefore, the grantee acquires a new way to the estate previously reached by way of necessity, the way of necessity is extinguished."

In this case it is only held that a way of necessity would pass under the ordinary provisions of a deed, to wit: that "all and every the rights, privileges, appurtenances and advantages to the same belonging," or that it might pass without such a covenant.

In *Pierce v. Selleck*¹⁶ we find this language:—

"It is a fallacy to suppose that a right of way of necessity is a permanent right, and the way a permanent way attached to the land itself, whatever may be its relative condition and which may be conveyed by deed irrespective of the continuing necessity of the grantee."

In this case it was sought to retain the old way of necessity merely because it was more convenient to the use of the owner, than a new highway which was laid out along or through the tract. It was not shewn that the highway would not be as advantageous to the general use of the premises as the old right of way, but merely it was not as convenient to the use of the owner.

In *Holmes v. Seeley*¹⁷ this quotation is used:—

"This was strongly exemplified in *Holmes v. Goring*, 2 Bing. 76, where it was decided that a way of necessity became extinguished because the party could conveniently reach his lot by means of a close of his own subsequently purchased."

It will be noticed from these quotations that it is generally held that the new way must be as convenient as the old way before it is lost.

Thus we have in *Vail v. Carpenter*,¹⁸ where it is said:—

"A right of way of necessity ceases as soon as the owner of it can have a direct and convenient access over his own land to the place to which the way leads."

Then follows a longer quotation from *Holmes v. Goring*¹⁹ as follows:—