

November, 1854, thus completing the loop around the bend and giving a continuous highway from east to west. Before the latter by-law was passed, namely, on 22nd September, 1854, the township of Fitzroy had apparently passed or attempted to pass a by-law to repeal the former by-law before mentioned. No reason appears for so doing, nor does it appear that any notices were given or other steps taken to make the repeal effective, and it is the fact that the road remained open and was continuously used by the public as a highway after the alleged repeal, just as before; so that the alleged repeal or attempted repeal may, I think, be disregarded.

Such then appears to be the history of the highway in question, first, mere trespass roads, followed by municipal recognition, and by user by the public for a period approaching 50 years, while the original allowances for roads during all these years remained and still remain unopened and incapable of use as thoroughfares by reason of the absence of the bridges required to cross the river.

Upon this road around the bend, since the passing of the by-law before mentioned, the townships of Pakenham and Fitzroy have from time to time expended public money in repairs and improvements, and the statute labour has been expended upon this as upon the other highways in the vicinity.

About five years before the trial the two townships united in joint action at or near the boundary line to alter and somewhat shorten the road so as to avoid a gully and improve the road. And this is apparently the only joint action in evidence by any of the several municipalities interested from the beginning.

The Chief Justice found that the road around the loop or elbow before described is a deviation for the purpose of getting a good line of road; and that the departures to the north-west and north-east of the road forming the boundary between the townships of Fitzroy and Pakenham are also deviations for the same purpose; and that both deviations were made as substitutes for the possible roads on the respective boundary lines, and were made for the purpose of obtaining a good line of road in view of the obstructing course of the Madawaska river and of the comparatively enormous expense in the matter of bridge construction and otherwise;