the user of the defendant has been subject to this restriction. The defendant made the entrance from his land wider some eight or ten years ago, but, as against the company, the length of user of that additional width of way cannot be upheld.

The company's contention was of law, and was placed on the footing that a railway company have not power to dedicate part of their property, as that would be repugnant to the title by which they hold their lands. And, by parity of reason, that no presumption of grant could arise from length of user to support an easement, and therefore no right of way has been established as a matter of law. That doctrine, though it has some colour from expressions in Guthrie v. Canadian Pacific R. W. Co., 27 A. R. 64, 31 S. C. R. 155, is not regarded as law by many great authorities by which I am bound. There is a line of cases beginning with Regina v. Leake, 5 B. & Ad. 478, down to the present time, which establish that railway lands may be dedicated for public or other user so long as that user is not incompatible with the present and actual requirements of the railway. Such is indubitably the case here, inasmuch as for over 30 years the defendant's use of the path has in no way harmed the company, and has not called forth the slightest complaint until this action is brought. . . . This path is a matter of no small importance to defendant, as it is in fact his only means of outlet. I think he is entitled to be undisturbed in his use of the path as aforetime, *i.e.*, of its original width as a footpath for pedestrians, subject to the right of the company to keep their gates closed and locked as before and so long as the station is in its present condition.

[Grand Junction Canal Co. v. Petty, 21 Q. B. D. 273, 276, Re Gonty and Manchester, etc., R. W. Co., [1896] 2 Q. B. 439, Foster v. London, Chatham, and Dover R. W. Co., [1895] 1 Q. B. 711, Wells v. Northern R. W. Co., 14 O. R. 594, Mulliner v. Midland R. W. Co., 11 Ch. D. 611, Rangeley v. Midland R. W. Co., L. R. 3 Ch. 306, 310, Elliott on Railroads, sec. 1140, Lehigh Valley R. R. Co. v. McFarlane, 43 N. J. L. 605, and Turner v. Fitchley, 145 Mass. 438, referred to.]

The company interfered with and caused injury to defendant's gate, and should pay $10 damages on the counterclaim. Action dismissed with costs and costs of counterclaim to be paid to defendant.