

The railway company constructed, as I have stated, a road 30 feet in width from St. David street, southerly, along the westerly side of their embankment, to Union street.

By the agreement, the company was to construct another 30-ft. road to the east of the railway, and across lots 23 and 24, on the north side of Main Street.

The evidence did not disclose whether that had been constructed or not, but for the purposes of this action it makes no difference.

If constructed it is only another way for certain persons according to their positions on Main or Union streets, to get to St. David street east of the railway crossing.

That is simply a substituted road and can be of comparatively very little use to anyone to the plaintiffs.

The defendants are liable for damages if plaintiffs have sustained any by reason of the closing up of this street.

The plaintiffs are all of one family—the father, two sons and son-in-law—and have attempted to greatly magnify their damages.

Their complaint was, annoyance and inconvenience from sand driven by wind to their property.

A difficulty at once arises in determining where the sand complained about, came from.

If it came from that part of the company's right of way other than where the illegal work was being carried on, the plaintiffs would require to prove more than they have proved.

The interference with the plaintiffs' right to use the street, they seemed to feel keenly although it was not attended with any great pecuniary loss.

The plaintiffs all pretty well agree as to the statement of the amount of damages, but it was difficult to get from them or their witnesses anything definite.

St. David street is a short one. Its eastern end is at its junction with Saras alley. The street is said to be stony—not very safe to travel upon.

The photographs shew the condition of the street to be very bad, not a desirable street at present upon which to reside.

The alley is not well kept.