

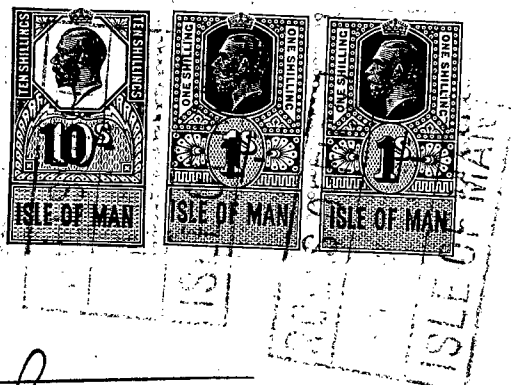
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JUNE
1938
MALEW

Filed 12th. April 1905

TO THE HIGHWAY BOARD



The humble petition of William Christian Cubbon of Rushen Abbey in the parish of Malew fruit grower and Philip Christian and Thomas William Cubbon trustees under a Settlement executed by Charlotte Cubbon and dated the fourth day of December 1903 and the said Charlotte Cubbon.

SHEWETH as follows:

1. Your petitioners are entitled to a certain plot of land or orchard containing 2 (two) acres of land or thereabouts situate at or near Ballasalla in the parish of Malew and delineated on the plan hereto annexed and marked thereon Rushen Abbey Orchard.

2. A pathway hereinafter called the old pathway runs through the said plot of land or orchard from the point marked A. to the point marked B. on the said plan such pathway being on the line delineated and coloured red on the said plan or thereabouts and it is claimed that such pathway has from time to time been used by the public and that they have a right of way thereover.

3. Your petitioners are willing to give and dedicate to the public use for ever a pathway or footway of 6 (six) feet wide running from the said point A. to the said point B. through the said plot of land or orchard on the portion thereof delineated and coloured blue on the said plan and hereinafter called the new pathway on condition that this Board approve of the same and agree to the said new pathway being substituted for the old pathway.



RECEIVED
THE TODAY
28 JUN 1938
12.10 O'CLOCK
Nº 3048

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4. Your petitioners are prepared at their own cost to properly form such new pathway and fence the same off from the remainder of the said plot of land or orchard.
5. Your petitioners believe that such new pathway when formed and fenced off as aforesaid will be more advantageous to the public than the old pathway.

Wherefore Your Petitioners pray that this Board may be pleased to view the said plot of land or orchard and to order that the new pathway be substituted for the old pathway and to make such order with respect to the substituted pathway as may be necessary or advisable to secure the rights of the public to the use thereof with such other and further relief as is meet and your petitioners will pray etc. etc.

LOUIS C. KEWLEY

Advocate for Petitioners.

UPON reading the foregoing petition it is hereby ordered that the same will come on for hearing on the ground on Wednesday the 4th. day of May 1904 at three o'clock in the afternoon when the Board will hear any evidence which may be produced before them In the meanwhile the Petitioners are required to give public notice of the time and place of such hearing by means of an advertisement in two or more insular newspapers and by posters publicly exhibited in the neighbourhood such advertisement to state that the petition and plan will be open for inspection at the office of Mr. C. T. C. Callow, Secretary to the Board, 27 Athol Street, Douglas, on any day during office hours between this date and the 4th. day of May 1904 and that a copy of the plan will also be deposited with the

Parochial Schoolmaster at the Schoolhouse, Ballasalla,
Malew.

Given at Douglas this 21st. day of April 1904.

T. KNEEN,

Chairman of Highway Board.

UPON hearing the foregoing petition in presence of Counsel for the petitioners and for Thomas Jefferson of Ballahot in the parish of Malew Esquire William Gold of the Rushen Abbey Hotel in the said parish of Malew Licensed Victualler and others and it being proved to the satisfaction of the Board that the hearing of the petition had been duly advertised as required by the order of the Board made on the 21st. day of April 1904 and the Board having viewed the existing pathway and which is shewn and marked "existing pathway" on the plan now attached to the said petition (such plan being and it hereby is substituted for the plan originally attached to the said petition) and hereinafter called "the old pathway" and having considered the evidence adduced it appears to the Board that petitioners should be allowed to substitute the proposed pathway and which is shewn and marked "proposed pathway" on the said plan filed herewith and is hereinafter called "the new pathway" for the old pathway upon the terms hereinafter set forth.

Now therefore it is hereby ordered and the Board hereby declares that:

1. The new pathway shall be a public footpath but not a carriage way or cart way provided that the petitioners may cart across the new pathway between the points E

and F. on the said plan but shall make good to the satisfaction of the Board any damage caused to the new pathway by such carting.

2. As soon as the new pathway is properly formed and open for traffic the old pathway shall upon the approval of the Tynwald Court being obtained cease to be a public road or pathway.

3. The petitioners shall properly form the new pathway to the satisfaction of the Board and may at any time hereafter (but it shall not be obligatory upon them to do so) fence the same off from the lands of the petitioners shewn on the said plan enclosed with red brown and green lines and numbered 1. 2. and 3. with a wall or fence not exceeding five feet in height above the level of the new pathway.

4. Nothing of a greater height than five feet above the level of the ground other than one villa the site of which shall not be of a greater area than eighteen hundred square feet shall be erected upon the plot of land delineated and enclosed with a red line and numbered 1 (one) on the said plan without the consent of the Board.

5. Nothing of a greater height than five feet above the level of the ground other than one Villa the site of which shall not be of a greater area than eighteen hundred square feet shall be erected upon the plot of land delineated and enclosed with a brown line and numbered 2 (two) on the said plan without the consent of the Board but such consent shall not be required for the erection of any wall or build-

ing although of a greater height than five feet above the level of the ground directly between such villa and the new pathway.

6. Nothing shall at any time hereafter be erected upon the plot of land delineated and enclosed with a green line and numbered 3 (three) on the said plan.

7. Nothing shall at any time be erected upon the strip of land on the West and North sides of the new pathway shewn and coloured blue on the said plan and such strip of land shall not at any time be fenced off from the new pathway.

8. The petitioners enter into a deed covenanting to abide by all the conditions herein contained so as to bind themselves their heirs and assigns.

Given at Douglas this 10th. November 1904.

LS

WM. J. ANDERSON.
ROBERT COWLEY.
JOHN C. CRELLIN.
PETER CADMAN.
J. QUALTROUGH.
WM: QUAYLE.

UPON further consideration of the foregoing petition and of the Order made on the 10th. day of November thereon and the Petitioners having in terms of such Order entered into a Deed covenanting to abide by all the conditions contained therein and having properly formed the new pathway to the satisfaction of the Board and such new pathway being now open for traffic the old pathway has in the opinion of the Board been rendered unnecessary IT IS THEREFORE HEREBY ORDERED that subject to the approval

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of the Tynwald Court the old pathway be and the same is hereby stopped and the same shall cease to be a public road or pathway.

Given at Douglas this 6th. day of April 1905.

WM. J. ANDERSON.
PETER CADMAN.
J. QUALTROUGH.
WM. QUAYLE.
ROBT. COWLEY.
JOHN C. CRELLIN.

EXAMINED AND CERTIFIED

A TRUE COPY



CHIEF CLERK.

REGISTRY OF DEEDS, ISLE OF MAN.

23rd June 1938

I certify that the foregoing Deed was this day at the hour of 12-20 o'clock afternoon received by me at this office for the purpose of being Registered and Recorded according to Law and the same is duly Registered and Recorded and Entered in the Requisition Book 25 Page 236 No. 3048

O. Y. Chrishan
Registrar.

Malew

re Rushen Abbey Orchard

Copy Petition of W. C. Cubbon and
others and Order of Highway Board
re footpath dated 10th. November 1904.

Copy 12/-
