

112

Filed 14th. April, 1905.

*Printed in England.*JUNE
1938
MALEW

To His Excellency the RIGHT HONOURABLE BARON RAGLAN
Lieutenant Governor of the Isle of Man and the Honourable
the COUNCIL DEEMSTERS and KEYS in Tynwald assembled.

The humble petition of
THE HIGHWAY BOARD.

SHEWETH as follows :

1. 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 widow and dated the 4th. day of December 1903 and the said Charlotte Cubbon hereinafter called "the Proprietors" presented their petition to your petitioners on the 21st. day of April 1904 setting out that they the Proprietors are entitled to a certain plot of land or orchard containing two acres of land or thereabouts situate at or near Ballasalla in the parish of Malew and delineated on the plan annexed to such petition and marked thereon Rushen Abbey Orchard and that a pathway in such petition called the old pathway ran 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 that it was claimed that such pathway had from time to time been used by the public and that the public had a right of way thereover and that the Proprietors were willing to give and dedicate to the public use for ever a pathway or footway of 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



Sec
June 1938-122

3052



11-20
3050

Green

3050

said plan and thereafter in such petition called the new pathway on condition that your petitioners should approve of the same and agree to the said new pathway being substituted for the old pathway and that the proprietors were 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 and the said petition prayed that your petitioners might be pleased to view the said plot of land or orchard and to order that the new pathway should be substituted for the old pathway and to make such order with respect to the substituted pathway as might be necessary or advisable to secure the rights of the public to the use thereof -

2. On the 21st. day of April 1904 His Honor Thomas Kneen Esquire His Majesty's First Deemster the then Chairman of the Highway Board by order on the said petition ordered that the same should come on for hearing on the ground on the 4th. day of May 1904 when your petitioners would hear any evidence which might be produced before them and in the meantime the Proprietors were 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 exhibited in the neighbourhood such advertisement to state that the petition and plan would be open for inspection at No.27 Atholl Street Douglas the Office of your petitioners secretary on any day during office hours between the date of the order and the said 4th. day of May 1904 and that a copy of the Plan would also be deposited with the Parochial Schoolmaster at the Schoolhouse

Ballasalla aforesaid - .

3. Your petitioners viewed the said plot of ground or orchard and the said petition came on for hearing before your petitioners on the said 4th. day of May 1904 in presence of Counsel for the Proprietors 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 when it was proved to the satisfaction of your petitioners that the hearing of the said petition had been duly advertised as required by the said order of the 21st. day of April 1904.
4. On the said 4th. day of May 1904 and on several subsequent days to which the hearing was from time to time adjourned evidence was adduced before your petitioners and on the 10th. day of November 1904 your Petitioners on consideration of such evidence made an order that the Proprietors should be allowed to substitute the proposed pathway (thereinafter and hereinafter called "the new pathway") and which is shewn and marked "proposed pathway" on the plan now attached to the said petition (such plan being substituted for the plan originally attached thereto) for the existing pathway thereinafter and hereinafter called "the old pathway" and which is shewn and marked existing pathway on the said plan upon the terms on such order set forth. Your petitioners by the said order of the 10th. day of November 1904 also ordered and declared inter alia that as soon as the new pathway should be properly formed and

open for traffic the old pathway should upon the approval of the Tynwald Court being obtained cease to be a public road or pathway and that the proprietors should properly form the new pathway to the satisfaction of your petitioners and that the proprietors should enter into a Deed covenanting to abide by all the conditions contained in such order -.

5. By deed dated the eleventh day of November 1904 and made between the proprietors and your petitioners the proprietors covenanted to abide by all the conditions contained in the said order of the 10th. day of November 1904.

6. The new pathway has been properly formed to the satisfaction of your petitioners and is now open for traffic -.

7. Under the provisions of Section 21 of the Highway Act 1889 your petitioners on the 6th. day of April 1905 made an order under their Common Seal that subject to the approval of the Tynwald Court being obtained the old pathway should be stopped and cease to be a public highway or footpath.

8. Your petitioners deem it advisable that their said order of the 6th. day of April 1905 should be effective and operative and your petitioners are desirous that this Honourable Court should approve of the said order of the 6th. day of April 1905 in terms of Section 21 of the Highway Act 1889.

WHEREFORE your Petitioners humbly pray a hearing hereof and that this Honourable Court may approve of the Order of the ~~6th~~ day of 6th. day of April 1905 with such other and

further relief as is
meet and your petitioners
will pray &c. &c. &c.

F. BROWNE.

Advocate for Petitioners.

ORDERED THAT THIS PETITION DO COME ON TO BE HEARD AT A
TYNWALD COURT TO BE HELD AT DOUGLAS ON TUESDAY THE 11th.
APRIL INSTANT WHEREOF ALL PROPER AND PERSONS ARE TO HAVE DUE
NOTICE.

GIVEN THIS 10th. APRIL, 1905.

M. RAGLAN.
Lieut. Governor.

At a Tynwald Court held on the 11th. April, 1905
Resolved that the prayer of the foregoing petition be
granted.

M. Raglan.

S. Stevenson Moore Deemster.

W. J. Anderson R. G.

Chas. T. C. Callow. V. G.

The Keys.

A. Moore Speaker

John R. Kerruish

W. H. Kitto

John Killip

Robert Cowley

W. T. Crennell

Geo. Moore Lt. Col.

Robert Clucas

Wm. Goldsmith

W. J. Kermode

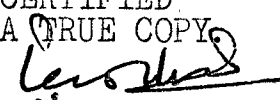
Jno. T. Cowell

J. Qualtrough

Edward B. Gawne

D. Maitland

EXAMINED AND
CERTIFIED
A TRUE COPY


CHIEF CLERK
ROLLS OFFICE.

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. 3050

J. Chrisman
Registrar.

Malew

IN TYNWALD

7))))))=.

Copy Petition and Resolution
of Tynwald Court dated 11th. April
1905 approving Order re new
footpath in Rushen Abbey Orchard.

Copy 7/6
