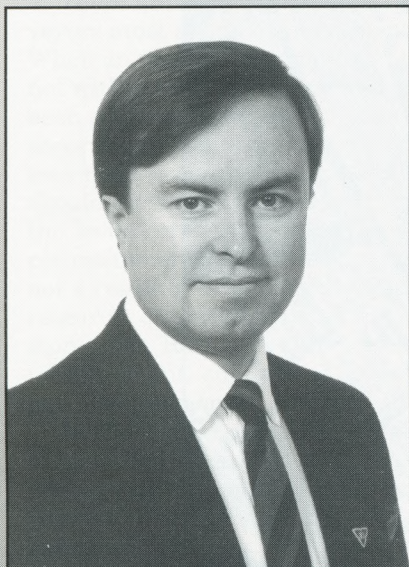


THE DAY KIPLING AVENUE DISAPPEARED

BY RICHARD JORDAN, O.S.T.

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Kipling Avenue is a major traffic artery in the Metropolitan Toronto community of Etobicoke. As one of the original Township Road Allowances, it has always had importance to local residents - so just imagine the scandal when an 1850's court case showed the road never existed.

The facts of the case were simple and it all started with a simple charge of trespass.

One day in 1856, farmer James Stock found two neighbours, Ward and Greer, cutting trees and clearing brush on his farm near the present intersection of Kipling Avenue and Norseman Street.

Ward, who owned the property next door, was busy hauling away Stock's valuable timber.

The two men explained that they were opening a road as requested by the Township of Etobicoke. Furthermore, they said, the land they were standing on was not Stock's but a road allowance as laid out in the original survey of the Township.

Stock knew where his boundaries ran and believed the road allowance lay on Ward's side of the fence. He charged the two men with trespassing.

The case was heard before Chief Justice Robinson in April, 1857, and it was clear that the question of trespass would be settled when the location of the road allowance was determined.

To everyone's consternation, the original survey records showed there was no road allowance.

Stock's property, to the east, had been surveyed by Abraham Iredell in 1795. Operating under government instructions, Iredell laid out twenty lots between Royal York Road and Kipling Avenue, north of the Queensway and south of Bloor Street. It was intended that the road would

be taken from the surrounding unsurveyed lands. And they were, except to the west along Kipling Avenue.

When the land between Kipling Avenue and Etobicoke Creek were laid out into Concessions and Lots in 1811, surveyor Samuel Wilmot assumed that Iredell had already marked off a road allowance for Kipling Avenue. The lots he surveyed, including Ward's, began just where the road should have been located.

Chief Justice Robinson instructed the jury that the boundary of Stock's property had been established first and the government had intended the road to be on Ward's side of the fence. It was clear that Ward and Greer had been trespassing.

The jury, however, impressed by an eloquent defence, found the two men innocent! Since the verdict went against the bulk of the evidence, an appeal would have been in order, but it never took place.

James Stock had become tired of the expensive and bitter court struggle and decided to concede. His trees had been cut and a badly needed roadway had been opened.

Although it never appeared on a survey, Kipling Avenue between Bloor Street and The Queensway became a public road simply because it was travelled.

And if you drive north on Kipling today and notice the road jogs slightly to the east at Jutland Road, you will be driving over James Stock's old woodlot.

Correction Notice:

Our apologies to Mr. Jordan for the incorrect spelling of his surname in the Summer/Fall 1992 issue.

