

An affidavit of defense was filed March 24/58.
Aft. Answer was filed April 2. 1858.

Copy of Defendants' Answer.

" Commonwealth of Massachusetts.

Middlesex ss. In Court of Common Pleas, March 7. 1858.

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and now the Defendant in the above entitled ac-
tion comes, and, for answer to the Plaintiffs' de-
claration, says, that he is ignorant personally and
by information and belief, whether the Plaintiff is
the owner of the parcel of land described in said
declaration, or not; and whether the parcel so
described includes any portion of the soil of
~~Coast~~ Court Street, as the same is now laid
out and used, or not; so that he can neither
admit nor deny the Plaintiffs' allegation in that
behalf, but leaves the plaintiff to prove the same.

And as to the acts in said declaration, alleged
to have been done by him, he denies that he took
and entered the Plaintiffs' close, or that upon any
portion thereof he made and erected a plank walk.

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or way, or that he dug up the ground or any part thereof, or set any posts therein, or fastened any rails or boards upon any posts therein, or cut off the Plaintiff from passing across his said lands to or from Court Street.

And the Defendant denies that he has kept and continued any obstruction upon the Plaintiff's lands or that he has ever obstructed the Plaintiff in the use of the same, or incumbered his closed in any manner whatever.

And the Defendant further says that if the Plaintiff shall prove that he is the owner of the soil in any part of said Court Street, as the same is now laid out and used then the Defendant will show that said Court Street is, and was at the time of the alleged trespass, a public highway duly laid out and established, and that the public then have and still has an easement therein for all the purposes of a public highway; and that the plank walk, posts, rails and boards mentioned in the Plaintiff's declaration are, and at the time of the alleged trespass were, within the limits of said public highway, and were placed there for the pur-

poses of said highway, and by direction of the proper and competent authorities, to wit the Surveyors of Highways for the City of Cambridge mentioned in the Plaintiff's declaration, which Surveyors of Highways were the Mayor and Aldermen of said City of Cambridge.

Geo. W. Figgins,

by his atty: Justin A. Jacobs."