

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

Applicant

and

MINISTER OF NATURAL RESOURCES

Respondent

**APPLICATION UNDER SECTIONS 2(1) AND 6(2) OF THE *JUDICIAL REVIEW*
PROCEDURE ACT, R.S.O. 1990, Chapter J.1**

AFFIDAVIT OF MITCHELL SHNIER

I, MITCHELL SHNIER, of the City of Toronto, Province of Ontario, MAKE OATH AND SAY:

1. Our family owns a residence at 1046 Bala Falls Road, Bala, and I divide my time between Bala and Toronto. I am an engineer by profession and have been very actively involved with the issue of the proposed hydro-electric generating station at the Bala Falls and the group known as "SaveTheBalaFalls". As such, I have knowledge of the matters hereinafter deposed to.
2. I have investigated the current use of Burgess Island as a portage route, and have researched in detail the historic portage route around the Bala Falls. Based on this I confirm that the route identified by John Hiley, O.L.S., and shown on the survey attached as Exhibit "B" to his Affidavit, sworn March 27, 2012, is currently the portage route between the Moon River and Bala Bay, Lake Muskoka (hereinafter referred to as "the Portage"), and that the historical Portage through Bala has always been directly south of the north falls.

3. Details of first-hand accounts from all three of the historical books on Bala: Robert Petry's, *Bala an Early Settlement in Muskoka*; Bunty and Lorne Jewitt's, *Bala The Way it Was*; and Frederick William Sutton's, *Early History of Bala*, confirm that the traditional and historic portage around the Bala Falls was, and is, south of the north falls.
4. Sutton's *Early History of Bala* was published soon after the author's death, in 1967. Frederick Sutton was born in 1884 near Bala and moved to Bala in 1899. *Early History of Bala* provides a first-hand account that the portage was adjacent to Hurling's boat livery, and that this was on the south side of the north channel and north falls and that the portage was there before the rail line was built. As there is only one portage that portage would have been used by the native people. Attached as Exhibit "A" to this my Affidavit, are copies of excerpts from Sutton's book.
5. Bob Petry was born in 1921 and when his book was published in 1998, he had been in Bala every summer of his 77 years, except for the first four years of his life. In *Bala, An Early Settlement in Muskoka*, Petry establishes that the boat livery was and is on the island between the two falls (that is, Burgess Island) and that, from Bala's beginning, this was the location of the main portage from Lake Muskoka around the falls, to the river below. Attached as Exhibit "B" to this my Affidavit, are copies of excerpts from Petry's book.
6. Petry also demonstrates that the railway was completed through Bala in 1907 and that the boat livery was at the main portage and that it had to be moved closer to the north falls (that is, to the west), due to the construction of the railway.
7. According to Petry, the boat livery was owned by Sam Hurling, since 1905, or earlier, then John Hamill, George Adams and, in beginning approximately 1939, Mack Cunningham. After Cunningham's ownership, the boat livery is referred to as Purk's Place. Through a series of photographs Petry establishes that the livery and Portage have always been on the south side of the north falls, as they are today.
8. Bunty and Lorne Jewitt, the authors of *Bala, The Way It Was*, were awarded certificates naming them "Bala's historians", at Bala's 125th birthday, in 1993. Attached as Exhibit "C" to this my Affidavit, are copies of excerpts from the Jewitts' book.

9. At page 3, the authors note that construction of the railway through Bala began in 1906, and was completed in 1907, and the highway by-pass was completed in 1965.
10. The book notes the construction of the Burgess Memorial Church “on the portage below the South Falls in Bala”. The Burgess Memorial Church building is downstream of (“below”) the south dam and opposite Purk’s Place, on the south side of Bala Falls Road adjacent to the Portage; that is, the book confirms that the Portage is on Burgess Island, south of the north falls.
11. The photograph at the top of page 180 is taken south of the north falls, at the Moon River end of the portage. It would have been taken before 1924, as the Bala No. 2 generating station is not there and the highway by-pass had not been built. This photograph confirms to me that it was common to launch canoes south of the north falls and that the portage route to Bala Bay was not too steep for portaging.
12. In summary, all three historical texts which are specifically about Bala confirm that the Portage has always been on the land south of the north falls and that it has been in continuous use as a portage, since before the Crown acquired the land from the Bala Electric Light and Power Company Limited on April 26, 1929.
13. In addition to the above, an examination of a map, which was drawn by the Hydro-Electric Power Commission of Ontario, and dated February 26, 1929, reveals that the entire east end of Portage Island was used by the C.P. Railway Summer Train Station. People would arrive by train and either continue to travel by car, or go down from the train platform to the Town Docks on Bala Bay to continue to travel by steamer or other boat. Attached as Exhibit “D” to this my Affidavit, is a copy of the February 26, 1929, map.
14. The Bala No. 2 generating station is shown on the Crown land south of the north falls (it had been built five years earlier). Clearly, there is enough room for the portage to continue to be used as there is adequate room both to the north and south of the generating station, which was there from 1924 to 1972. A photograph taken of the Bala Summer Train Station in 1916, demonstrates the typical summer congestion from vehicles, the train tracks, luggage and passengers at the east side of Portage Island, making this a most undesirable path for portaging

canoes and packs. Attached as Exhibit "E" to this my Affidavit, is a copy of the 1916 photograph.

15. By contrast, another photograph of Bala Bay, taken from the south dam, also in 1916, shows at the left the shoreline of what is now known as Divers Point on Burgess Island, and the undeveloped and open conditions there, conditions that remain very much the same today, and are most suitable for portaging. Attached as Exhibit "F" to this my Affidavit, is a copy of the 1916 photograph looking north across Bala Bay, past Divers Point and at the Summer Train Station.

16. Accordingly, the Portage would have continued to be on the south side of the north falls, as the land use on Portage Island (vehicles, trains and ships) would not have been compatible with portaging. The area around the Portage, however, was relatively undeveloped, so there would have been no reason to relocate the Portage to Portage Island anytime during the last 100 years.

17. David Thompson was a famous surveyor and cartographer who lived from 1770 to 1857. To establish from yet another source that the Portage was to the south of the north falls, I next rely on David Thompson's historical journal.

18. In 1837, Thompson was asked by the British government to find and survey a route from Lake Huron to the Ottawa River, as the construction of a canal (complete with locks, so boats would not need to be portaged) was being considered.

19. As for all of Thompson's travels, he kept a very detailed hand-written journal which is available for viewing on microfilm at the Archives of Ontario in Toronto. Attached as Exhibit "G" to this my Affidavit, is a copy of the page from Thompson's journal which has the relevant journal entries for August 13 and 14, 1837.

20. The book, *Nastawgan, The Canadian North by Canoe & Snowshoe*, by Hodgins and Hobbs confirms that Thompson reached what is now called Bala on August 13, 1837. Attached as Exhibit "H" to this my Affidavit, are excerpts from this book which includes this information.

21. Thompson's journal includes details such as the height of waterfalls, and the locations and slopes of portages found. Page 13 of Thompson's journal number 66 shows that he reached Bala on August 13, 1837.

22. Thompson numbered each waterfalls up the Musquash River (which he called the Muskako River), beginning at Lake Huron (this area was not called Georgian Bay at the time).

23. What we now call Ragged Rapids Thompson calls the "11th Falls". Upstream of that, is Bala Falls, previously known as the Musquash Falls, and referred to by Thompson as the "12th Falls".

24. The book, *Muskoka and Haliburton, 1615-1875*, by Murray, notes that Thompson uses the abbreviation "CP" (carrying place) for portage, and the symbol "⊃" for right. Thompson uses other abbreviations, such as "ab^b" for about, "y^d" for yard, "&c" for etcetera, and "Ex^d" for examined. Attached as Exhibit "I" to this my Affidavit, are excerpts from Murray's book which provides some of this information.

25. From the journal and his assignment, it is clear that Thompson is travelling upstream, from Georgian Bay to Lake Muskoka. Therefore the south side of the north falls would be to his right, which he indicates with a "⊃".

26. The second page of Exhibit "G" provides an expanded view of the lines of interest, Thompson's journal reads:

"at 11 am came to the 12th Falls which comes boldly down about 12 ft & upper slope about 3 ft, in all 15 ft. The CP is in a Bay ... 100 yd to the ⊃ of the Falls. ... We camped for the night."

27. From that, I believe that on Thompson's first arrival, he is reporting that he portaged up what is now called the south channel, which indeed is approximately 100 yards south of the north falls.

28. The next day, Thompson's journal continues:

"... the CP close on the 3 of the CP is ... Chan where water still runs when high."

29. That is, after camping for the night near the falls, Thompson's journal indicates that the portage to the right of the Portage is actually a channel where the water runs when the water level in Lake Muskoka is high

30. From this, I believe that after Thompson examined the area, he has determined that: the portage he had used the previous day was actually a channel which carries water when the water level in Lake Muskoka is high (that is, yesterday's portage was up the south channel); and the south channel is to the right of the Portage.

31. The proponent provided a Heritage Impact Assessment as Appendix C8 of their environmental screening report, dated October 2009. Section 3.4.1 states that the south channel was blasted and excavated deeper by the Ontario Department of Public Works in 1875. The result is that water now always flows in the south channel (and this has created Burgess Island), so the south channel could no longer be used as a portage.

32. Regardless of when it may have been possible or no longer possible to portage up what is now the south channel, Thompson's journal establishes that there was another Portage closer to the north falls. This "other" Portage was established prior to Thompson's travels in 1837, and was south of the north falls.

33. At the time of this work, Thompson was 67 years old and he had the instruments and a lifetime of experience to very accurately record and report his findings. As such, I believe that his journal and maps qualify as "early surveys, maps and documents", as requested by the MNR.

34. Photograph F4592-6 H-0114 from the Archives of Ontario was taken between 1901 and 1906, and shows the west side of Burgess Island. Canoes can be seen on the shore south of the north falls, and there is a gentle incline eastward, facilitating portaging. Attached as Exhibit "J" to this my Affidavit is a copy of this photograph.

35. The Department of Highways of Ontario constructed a “highway bypass” which was completed in 1965 and which resulted in a steep embankment and the requirement for guardrails on Burgess Island adjacent to District Road 169. This embankment is shown from both the bottom and top in the photographs included as Exhibit “K” attached to this my Affidavit.

36. Since at least 1960, the Public Lands Act has not allowed portages to be obstructed. The highway bypass construction by the Province of Ontario restricted the available routes for the Portage to be only over what is now the Crown land directly south of the north falls, as is shown on the survey drawn by John Hiley, O.L.S., and as is attached as Exhibit “B” to his Affidavit, sworn March 27, 2012.

37. The Bala north falls and north channel were originally mostly rapids. When the Bala dams were constructed in approximately 1875, the water level of Lake Muskoka was raised by 6 to 10 feet – this as noted on page 4 of the proponent’s Heritage Impact Assessment (Appendix C8 of their environmental screening report, dated October 2009).

38. As shown by current nautical charts, upstream of the north channel, the water towards the north shore is less than 6' deep, so this area would often have been dry land before the Bala dams were constructed. This is likely why a Crown land patent was granted for a “Water Lot” in this area (normally, ownership of the beds of waterways remains with the Crown). See the “Secondly” land parcel in Exhibit “D” attached to this my Affidavit.

39. As the north channel was mostly rapids (which would have often been adjacent to the shore north of them), it would often not have been possible to safely canoe to and from the eastern side of Portage Island. Therefore, a portage on Portage Island would not have been desirable. A section of a current nautical chart for this area is attached as Exhibit “L” to this my Affidavit. Water near the shore that is shaded in blue are less than 6' deep, and would often have been dry land before the Bala dams were constructed.

40. I have examined the site plan for the proposed generating station, as was provided by the proponent as Figure 2.1 in their Addendum, dated May 2012. According to the provided scale, I see that the structure would be within 1.22 m of the side property line, which is too narrow for portaging a canoe. Attached as Exhibit “M” to this my Affidavit is a copy of the site plan.

41. Examining the site survey to determine the possible portaging path beside the proposed generating station shows further that this path would be too steep to traverse. Attached as Exhibit “N” to this my Affidavit is a copy of the site survey.

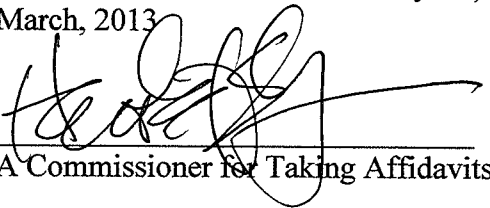
42. In the last pages of their Addendum Appendices, dated May 2012, the proponent provided water flow velocity simulations. The simulation for the lowest flow was superimposed on a satellite view of the north falls, and this is attached to this my Affidavit as Exhibit “O”. Note that this shows the following: the historic and traditional portage route would be obstructed by the proposed generating station, and this is not allowed by the Public Lands Act; the dangerously fast and turbulent water exiting the tailrace would be just metres away from the in-water recreational area at the base of the north falls creating great danger to families that for over 100 years have played in the water there, due to the variability of rainfall, even during the summer months when in-water recreation would be most popular, the proposed generating station would often operate at full capacity and also in a daily cycled mode, both of which would create even more dangers as one would never know when or if the station was already in operation or may start at any time, and this would be even more dangerous as perhaps a majority of those in the water would be visitors who would not be familiar with such dangers; and marine navigation would be difficult or dangerous at both the town docks on the Moon River and the private docks closer to the proposed generating station, and canoeing would be difficult or dangerous anywhere near this plume of fast water, so portaging would also be dangerous. Note that the proponent’s flow simulation did not extend far enough to know if others’ riparian rights or safe use of their docks would be affected. Note also that this fast water goes far beyond and outside of the proponent’s downstream safety boom. Note also that the flow simulation flow vectors (the small arrows showing the actual direction of the water) were scaled so it is not possible to see whether there are vortices or other turbulence that would make canoeing and therefore portaging difficult or dangerous even in areas showing lower-velocity water.


43. I am advised by, Coel Balmer, currently Acting General Manager of Camp Pine Crest, and do verily believe, that Camp Pine Crest is a YMCA children's summer camp, located in Torrance, a few kilometres from Bala. For over 100 years they have regularly used the portage at Bala to reach or return from Honey Harbour on Georgian Bay, as well as other locations to the west.

44. The camp's sessions are typically one to four weeks in duration, so every summer their weekly canoe trips expose a great many children to canoeing and show them first-hand the historic importance of this form of travel and transport.

45. I make this Affidavit in support of the Township's application for an order acknowledging and protecting the Portage and for no other or improper purpose.

Sworn before me at the City of Toronto,)
 Province of Ontario, this 27th day of)
 March, 2013)


 A Commissioner for Taking Affidavits, etc.)


 Mitchell Shnier

*This is Exhibit "A" referred to in
the Affidavit of _____*

MITCHELL SHNIER

*sworn before me this 27th day
of March, 2013.*



A Commissioner, etc.

EARLY
HISTORY
of
BALA



by

Frederick William Sutton

Frederick William Sutton



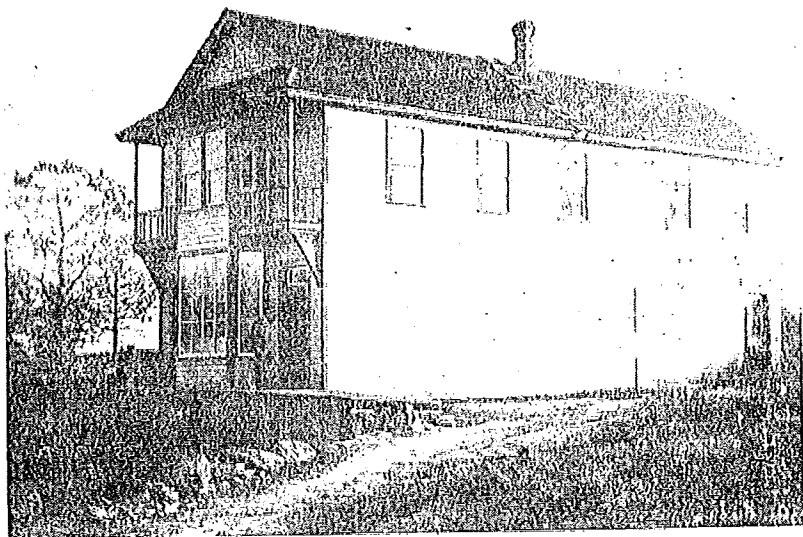
THE AUTHOR

EARLY
HISTORY
of
BALA

\$2.00 PER COPY

Herald-Gazette Press
BRACEBRIDGE, MUSKOKA, ONTARIO

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THOMAS W. BURGESS' ORIGINAL STORE



AN EARLY PHOTOGRAPH OF BALAFALLS"

vided a fair wind, the raft was abandoned and Dad rowed home half frozen to find Mother crouched in a window where she had waited for hours.

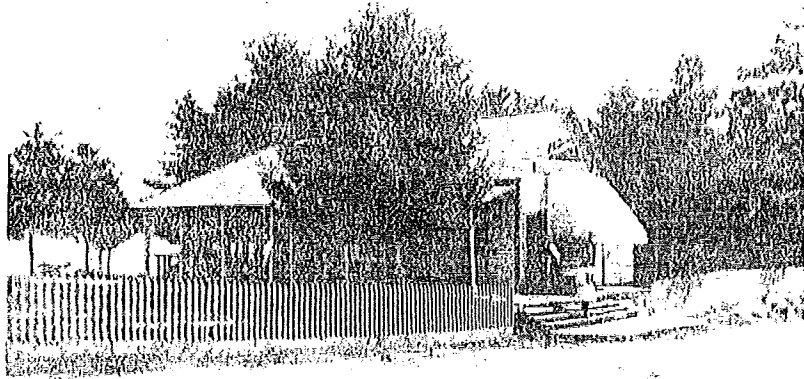
Pioneering was hard on men but harder still on women left so much alone in the bush. Early reading had filled their minds with dread of wild animals and wilder Indians. I can imagine my Mother's perturbation when, while alone, an Indian called and asked for the Boss. Mother of course said, he will soon be in; the man seated himself just inside and said he would wait. Hours after, when Dad returned, it transpired the Indian wanted to borrow a gun. What a quandary! Not wishing to make a bad start by offending a native, the gun was lent and the folks went to bed thinking they had seen the last of their gun. Morning came and lo! the gun and a hind quarter of venison were hanging in the porch. A life long champion for the Red Man was won.

Our family moved into Bala in 1899 and opened a General Store. Communication was through the mail only and was decidedly slow. By December 1901, Dad started subscriptions and let contracts for the first telephone line to connect with a line operated by the Great North-western Telegraph Co. from Bracebridge to Port Sandfield. Telephones were used mainly for the transmission of telegrams, substantially aiding our business people.

From 1886 until his death, Dad was a faithful correspondent to Bracebridge, Gravenhurst and Orillia weekly papers. My scrapbook contains thousands of clippings from his pen, much of it in the form of verse under the nom-de-plume "Muskoka Bard." To show that his work was appreciated, I am tempted to quote an obituary that appeared in the Orillia Times of August 30th, 1917, written by the Editor:

"Word was received in Town on Friday that Mr. E. B. Sutton, of Bala, had died that morning, after a long illness in the sixty-third year of his age. Deceased was well known in the Muskoka District and was a highly respected citizen of Bala where he had been engaged in business for a number of years, though living retired of late.

"Ephraim Browning Sutton was born in Leeds, Yorkshire, England, November 8th, 1854, he spent his boyhood day in Tuggles Hill, Chaford, Gloucestershire, and in the City of London. After leaving school he worked for the well-known publishing firm of Riverton and Sons, London, and here he was often brought in contact with the author he most admired, the late Charles Dickens. Later he entered railway life and was in the service of the Midland and Great Western Railways until he moved to Canada in 1882. He served in different capacities up to Station Agent in Penrith and Carlisle, in Cumberland, Swansea in South Wales and Leicester in the Midlands. In 1872 he married Mrs. Rose Anna Grey. Four children were born to them, three in England and one in Canada. The three children born in the old land fell victims to the filthy vaccination system of that time. The



WALTER LANGDON'S ICE CREAM PARLOUR AND PAVILION
FOR DANCING—LATER THE SITE OF DUNN'S PAVILION

From a photograph taken in 1911

HURLING FAMILY. Mr. and Mrs. Henry Hurling, Lot 39, Con. 7, Wood, 1885. Mr. Hurling had a family of three children, son Lorne and daughters Susan (Mrs. Fred Huggett) and Mrs. A. Benness. Possessing a green thumb, he operated a market garden successfully for many years. I believe he was at one time gardener for Prof. Goldwin Smith at the "Grange", Toronto.

M. S. "Sam" Hurling, a nephew of H. Hurling, had a boat livery and Ice Cream Parlour on Bala Portage—it being in direct line of the Canadian Pacific Railway had to be moved. Sam married about this time and moved his business and residence to a large lot which is now known as Dunn's Pavilion. The property was later sold to Mr. and Mrs. Walter Langdon. Dances were held on an open dance floor in a beautiful grove of pine trees decorated with Chinese Lanterns—it made a pretty sight. The large Dunn Pavilion swept all this away.

Mr. and Mrs. Thomas WILSON. Mr. and Mrs. Thomas Wilson came to Canada from Halifax, Yorkshire, England and

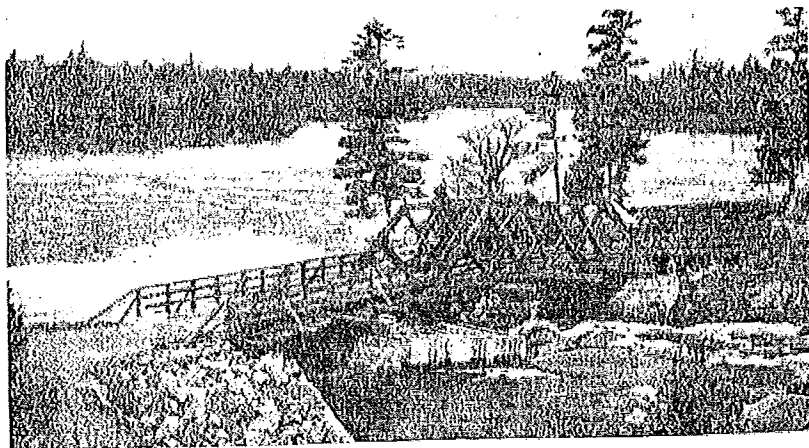
lived for a time with their parents, Mr. and Mrs. Eli Wilson, on Lot 16, Con. "F", Medora, then purchasing the farm of Arthur Gaunt, Lots 11 and 12, Con. "D", Medora, now within the Town of Bala. He had two sons and one daughter, James, Harry and Ruth. Harry married Miss Mary Shanks, a niece of Mr. Thomas Currie—two sons John and Roy and a daughter Edna live on and operate the farm at this time.

Mr. and Mrs. Alfred WALDEN, Lots 12 and 13, Con. "C", Medora, originally from England. Mr. Walden, by profession a core maker at the Gurney Foundry, acquired three hundred acres of brush and purchased sawmill machinery but the cards seemed to be stacked against him. First a gun burst taking off part of one hand; the mill was never erected. Discouraged he finally gave up. Mr. William Knifton was the first owner of the above lots until they were purchased by Alfred Jackson to secure a more direct road to Bala, later selling them to Mr. Walden.

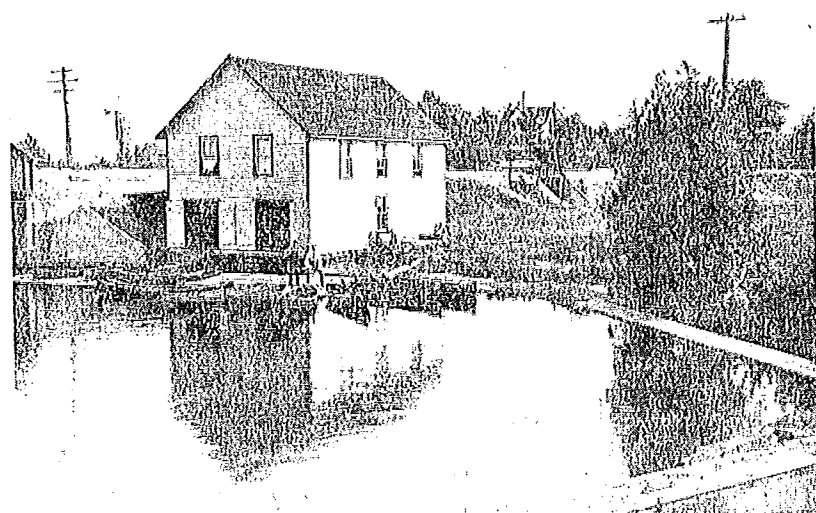
Mr. and Mrs. Edwin P. HUGGETT, also from England, Settling on Lots 10, Con. "E" and "F", had two sons and two daughters, Edward and Fred J., daughters Annie (Mrs. Geo. White) and Rose, Mrs. Sam Burgess.



MR. EDWIN HUGGETT



BRIDGE AT BALA FALLS
As it appeared in 1905



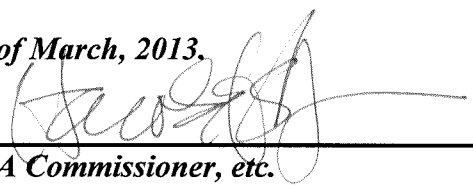
BOAT LIVERY, ESTABLISHED BY SAM HURLING, OPERATED
LATER BY JOHN HAMILL, AND FOR MANY YEARS
BY GEORGE ADAMS

INCORPORATION OF TOWN OF BALA — 1914

The people of Bala settlement were pretty well satisfied under Township Council rule, Mr. Burgess, Sr., being Reeve for a number of years and Mr. H. C. Guy holding the office of Clerk-Treasurer of Medora and Wood, there was little cause for complaint. Population began to concentrate at this point and in 1914, 46 years after the settlement was founded, Bala was incorporated a Town, the only community in Muskoka to reach the status of a Town without first serving a Municipal apprenticeship as a Village.

It was only fitting that a son of the founder, Dr. A. M. Burgess, should become its first Mayor.

The first members of Council, June 1st, 1914, were: J. A. Campbell, John Hamill, Alfred Jackson, O. McDivitt, Herman Weismiller and Thomas Wilson. W. J. Hobbs, Clerk-Treasurer. Mr. Hobbs died that same year and Fred W. Sutton became Clerk-Treasurer. The first Council sat three years. Successive Mayors were as follows: O. McDivitt, 1917-18; J. W. Burgess, 1919; O. McDivitt, 1920; O. A. McNeil, 1921; Thos. Burgess, Jr., 1922; O. McDivitt, 1923-24-25; J. W. Orchard, 1926-27-28-29-30-31; S. M. Jackson, 1932-33-34-35; J. W. Orchard, 1936; S. M. Jackson, 1937; J. W. Orchard, 1938 to 1945; John Orchard, 1946-47-48; Harold Wilson, 1949-50; Bruce Burgess, 1951. 1952 "The Black Year" of the Waterworks dispute. Three nominations failed to elect a Mayor—a Council sat illegally—the majority taking active part in a law suit against the Town. Town Clerk Fred W. Sutoon resigned in protest. Stewart Jackson 1953-54-55-56-57-58-59; Walter Templeton, 1960-61; Williams Rogers, 1962-63; Walter Templeton, 1964-65-66-67.

This is Exhibit ^{"B"}B referred to in
the Affidavit of _____
MITCHELL SHNIER
sworn before me this 27th day
of March, 2013.

A Commissioner, etc.

BALA

BY BOB PETRY



AN EARLY SETTLEMENT IN
MUSKOKA

Copyright 1998 by Robert Petry

Production by Lynx Images Inc.

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BOAT LIVERY

On the island between the two falls, stands a boat livery that has had a long and fascinating history.

From Bala's beginning, this was the location of the main portage from Lake Muskoka around the falls, to the river below. Sometime before the arrival of the railway in 1907, Sam Hurling established the boat livery at the main portage. It was located on the planned right of way of the CPR so had to be moved closer to the falls.

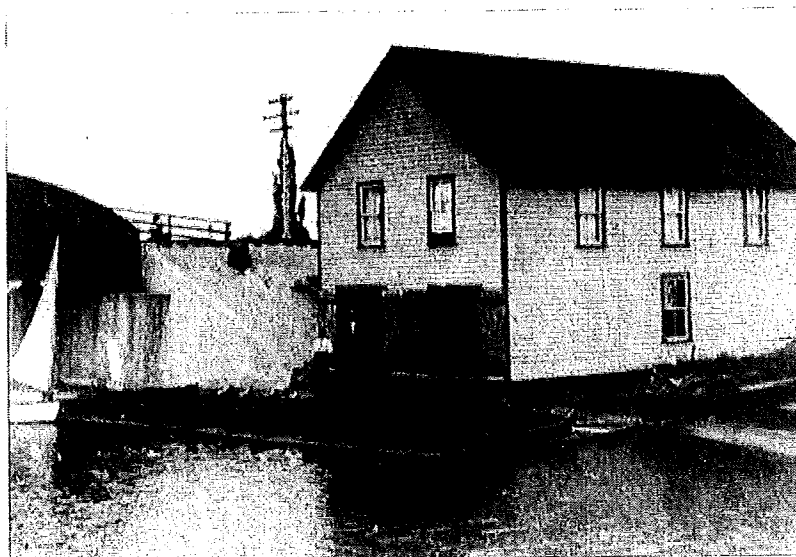
At this time he sold out to John Hamill. In about 1920 or shortly thereafter, the boat livery was taken over by the legendary George Adams. He was a huge man, with a reputation for his ability to drink a bottle of whisky straight out of the bottle. Under his floating dock he had a school of pet bass that would eat dew worms out of his hand. Most of the bass disappeared when some unscrupulous character caught them with hook and line.



The back of this photo indicates that it is the boat livery of Sam Hurling in 1905.

The bane of George's life was the repairing of his Peterborough canoes that were damaged on canoe trips and in the regatta. The charge for a day at the regatta was \$1.00, and \$5.00 to repair any damage sustained.

At about the beginning of the second world war, the boat livery was taken over by Mack Cunningham. At that time, he sold George Adam's old Peterborough canoes for \$25.00. He then proceeded to build his own fleet of canvas covered Cedar canoes which were of exceptional handcrafted quality. It was Mack Cunningham's ingenuity that planned and built the dance hall for Gerry Dunn in 1942.



This boat livery on the island was originally owned by Sam Hurling, by John Hamill, by George Adams and lastly by Mack Cunningham. It is now Purk's Place.


MRS. M. S. HURLING, Prop.

Portage Boat House

By the Week \$3.50. By the Day, 75 cents.
By the Hour, 20 cents.

Ice Cream Soda
Candles
Iced Drinks

Bala.
Muskoka



BOATS AND CANOES

By the Hour, 50c.
By the Day, . 75c.
By the Week, \$3.50

For Hire

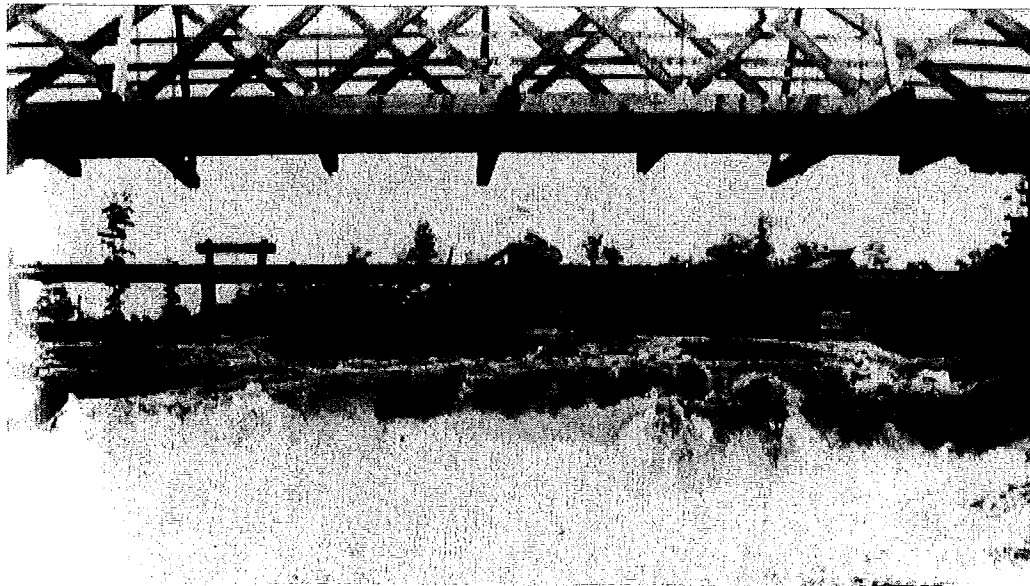
Camping Outfits
Supplied

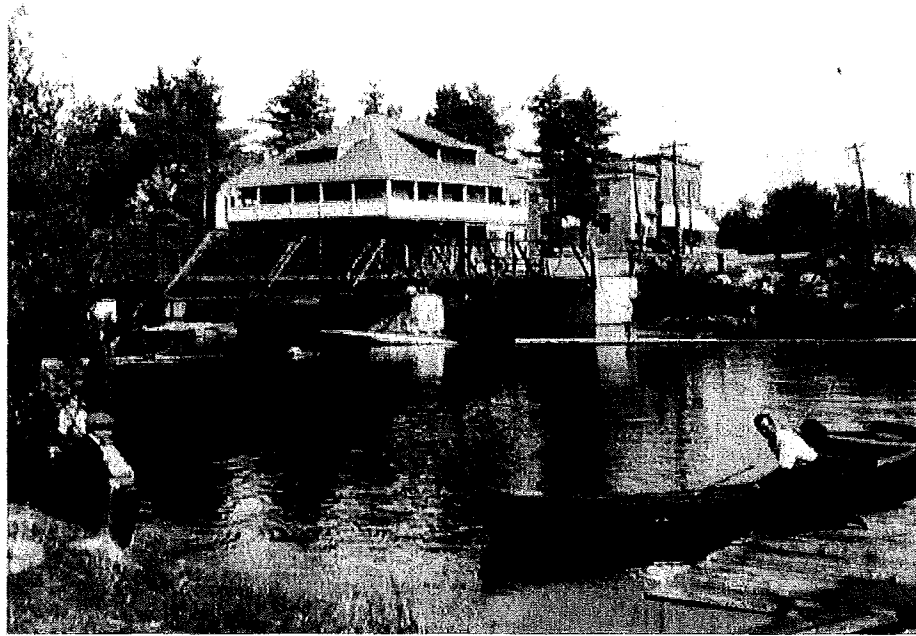
GUIDES FURNISHED ON SHORT NOTICE

J. HAMMILL, Prop. : BALA, Muskoka

NORTH FALLS

This has always been a centre of activity; Bala Electric Light & Power Company, Carr's Arcadian Ice Cream Parlour, Boat Livery, and the main exit for logs from the bay to the Moon River. The portage for the explorers and the modern day voyageurs was adjacent to the North Falls. These photos were all taken in the 1880's, after the dams were installed. The north dam was installed in 1873 to raise the water six to eight feet. This extra water improved the navigation on the bay. This was not sufficient so a second dam was installed at South Falls. These dams created three islands out of one in Torrance Bay. It is interesting to note the log boom that completely closes off the river.





CARR'S ARCADIAN ICE CREAM PARLOUR

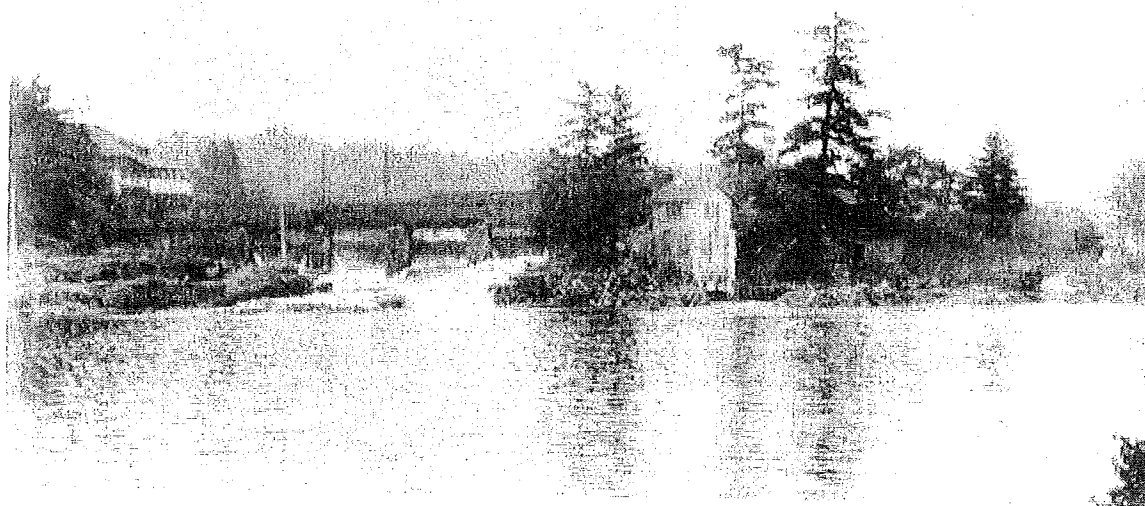
Mr. William Carr, moved into Bala from his parents' farm near Glen Orchard. He was employed at the Burgess store as a baker and he married Catherine Burgess. In September of 1916, Catherine acquired from the Burgess Estate, a parcel of land overlooking the falls on the left side of the road, across the North Bridge. On this property they built the Arcadian Ice Cream Parlour. This was a substantial size building. The second floor was an ideal place for the young people of the 1920's and 1930's, to dance in the afternoon, after calling at the post office. Carr's was an institution before Gerry Dunn's. This lovely old building was demolished when the new bridge was built across the North Falls in the 1960's.

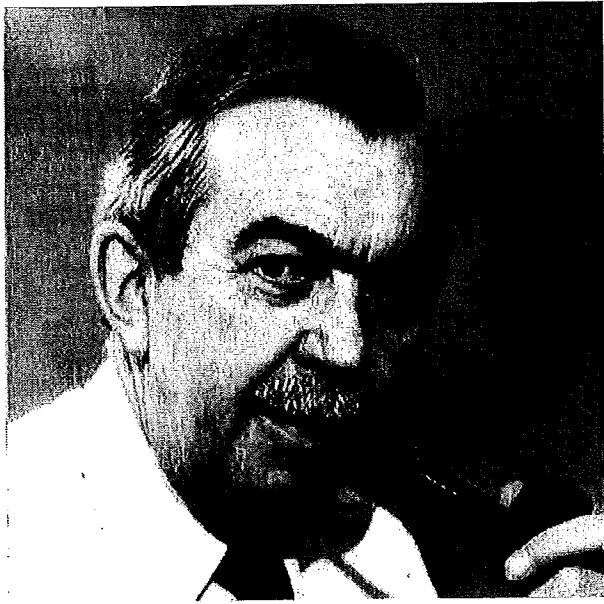


BALA FROM THE MOON RIVER

Upper picture: Frank Tooke's boat house with his boats, his home and that of George Clements, the town constable.

Lower picture: Shows Carr's ice cream parlour and dance hall, the old dam at north falls and the #2 generating station of the Bala Electric Light and Power Company.



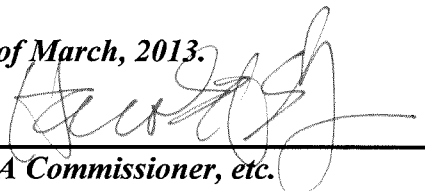


ABOUT THE AUTHOR

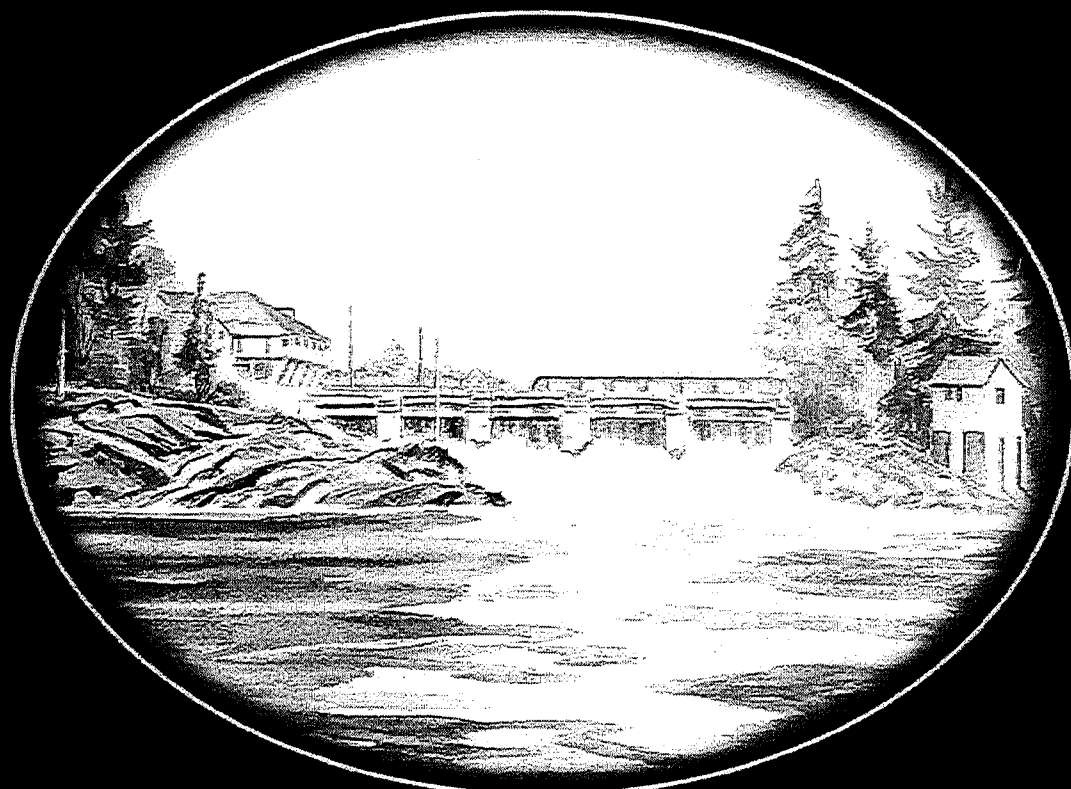
Robert (Bob) Petry was born in Toronto on May 18th, 1921. He was educated at Whitney Public School, North Toronto Collegiate, and Northern Vocational. He worked for six months for an insurance company in Toronto before joining the Navy on July 12th, 1940. Following five years in the Navy he returned to the company until 1952, when he and his wife moved to Bracebridge. They operated a general insurance agency until retirement in 1986. Bob's first trip to Bala on July 1st, 1921, was with his mother, to her father's cottage near the Windsor Hotel. The cottage was the fourth one along the shoreline, having been built in 1898. The author has been absent from Bala only four summers in his lifetime. In 1950, Bob and his wife Betty built their own cottage near the entrance to Dark Lake. Now the author's grandchildren, the fifth generation of Dr. Abraham's family, are still on Bala Bay.

Bob competed in the Bala Regatta from about 1929 until 1940. On his return from the Navy he competed in the aquatic events, and was chairman of the outboard racing committee. His participation in the aquatic association regatta came to an end in 1952 when he moved to Bracebridge and went to work in his own business with no holidays.

Bob and his wife Betty still live in Bracebridge, enjoying fishing, golf, skiing, curling, and their cottage at Bala.

This is Exhibit ^{"1"}C referred to in
the Affidavit of _____
MITCHELL SHNIER
sworn before me this 27th day
of March, 2013.

A Commissioner, etc.

BALA



The Way It Was

By Bunty and Lorne Jewitt

Bala - The Way it Was[©]

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Bala Falls and Bridges North and South

Bala is situated on an island called Portage Island, which has two sets of Falls at the south end and a bridge. At the north end, a bridge crosses the Mill stream.

South Falls (as they are known today)

In 1905, a wooden road Bridge and Dam were constructed at the Falls at what we call South Falls today.

When the C.P.R. railway came to Bala in 1907, it went right where this original bridge was and another larger wooden bridge had to be built.

We have a postcard which came from Jack Kendall whose grandfather was a Minister in the early days at the Gibson Reserve, which is now called Wahta Mohawk Territory. Jack Kendall had insisted all along that the **Bala South Falls** were known as '**Baby Falls**', in 1908. We have not come across this name in any of the researching we have done and we wonder if this name 'Baby Falls' was the original name for the South Falls before the Falls were widened, changing the name to '**Cut Falls**' and eventually later still to '**South Falls**'.

The date 1908 does not add up to the C.P.R. history of the Falls and we wonder if the date should perhaps be a few years earlier. - ie - 1902, 1903 or maybe 1904?

Some time before 1873, the South Falls area as we know it today (perhaps known as Baby Falls in those days), was blasted out and made much wider, and the Falls were re-named "Cut Falls", with a wooden road bridge built over the Falls to enable people and horses to gain access to Bala.

When Thomas Burgess Sr. stood at the South Falls and was looking down the Moon River, he is purported to have said, 'All those Pines are mine'. The White Pines were the reason he had chosen the Bala area to settle in as he could foresee the lucrative potential which all those trees had to offer where lumbering was concerned.

In 1873, Mr. Cockburn, an early Steamship owner, asked the Government to put Dams at Bala to control the water level and raise Lake Muskoka's level, so that this would prevent his Steamships from going aground on the rocks or sandbars on the Muskoka Lakes.



South Falls

The Dam at the South Falls was built in 1873, made with wooden cribs. These were replaced by concrete piers when the C.P.R. railway was being built in 1905/1906/1907.

We have a photo taken before 1890, looking from the falls area and it shows the end of Hurling's Point, with a white blob which has to be Henry Hurling's farmhouse. He came to Bala in 1888.

In 1915, a permanent concrete and steel bigger bridge and Dam were constructed over the widened South Falls.

In 1920, neither the Trinity Anglican nor Burgess Memorial Churches had been built yet and there was just a grassy embankment at the site of these two soon to be built churches.

When the railway tracks were first laid, there was an 11 foot grade up from the bridge and over the level crossing over the tracks. In the winter, this was very dangerous and so in 1911, an underpass or subway under the railway tracks was built from the South bridge under the C.P.R. tracks.

The highway had to be re-routed to go parallel to the C.P.R. Railway tracks and the present slanting bridge and road approach over the South Falls was built on the Moon River side of the railway and was opened on July 27, 1965.

To make room for the bridge, Carr's Arcadia had to be demolished.

North Falls

In 1873, the Government Dam was built at the North Falls, to control the flow of water over the North Falls, to raise the water level on Lake Muskoka and to aid navigation of the Lake Steamboats .

The Dam was built of logs and cribs filled with rocks. In 1958, it was replaced with the present concrete Dam and abutments.

The original road bridge across the North Falls was built in 1896,(before the C.P.R. were working on the railway in 1906 and was completed in 1907) and the Bala Presbyterian Church was built in 1893.

Katherine (Burgess) Carr (born in 1867), when she was a little girl, was sent out to get fish for the family dinner and all she had to do was to drag a bushel basket through the water below the North Falls and she carried their dinner back home.

In 1981, the last Dayliner Train went through Bala. Lorne almost photographed it, but he did not know this at that time and he wanted to photograph the North Falls, alone. He could have kicked himself later, when he found out that the train he had waited to pass was the last Dayliner passenger train to go through Bala!!



North Falls

We have photographs of the first train coming into Bala, and unfortunately, missed photographing the last one going through Bala heading south. What a bitter pill to swallow when he found out the missed golden historical opportunity!!

We also have photos of the Jack Ladder and equipment for raising the logs from the Moon

River to Lake Muskoka in the lumbering days, at the North Falls.

In 1998 the little park by the North Falls which is so widely used by picnickers and the White Pine trees are now growing on the site where Carr's Arcadia used to be .



Bala United Church

In 1925, the majority of the congregation of the Presbyterian Church voted to unite with the Congregational and Methodist Churches under the name Bala United Church.

There was a strong minority who withdrew from the Presbyterian Church and later built their own church on the portage below the South Falls in Bala, calling their Presbyterian Church, the Burgess Memorial Church.

The remainder of the congregation became the congregation of the Bala United Church. The church bell was rung for Services as well as to summon people to fight fires. Russell Cope sometimes used to ring the bell for fires.

The Bala United Church completely burned on March 25, 1934 at 1.00 p.m.

The newspaper described the fire:

"An overheated furnace is believed to have caused the fire which razed the United Church of Bala, Muskoka, late last Sunday afternoon. Pedestrians noticed smoke coming out of the edifice about 1.00 p.m., and gave the alarm which brought the Bala Fire Brigade, but the fire had gained such headway it was destroyed. Efforts were concentrated successfully on adjoining buildings. The Church and organ was insured for \$5,500.00, but the total fire damage came to \$10,000. That same night, Evening Service was held at the home of E.L. Jackson, one of the Elders".

In 1934, the new frame construction church was built on the same site of the previous church, prior to the fire.

The corner stone was laid on October 15, 1934, by Bala's oldest pioneer associated with the church, Thomas Wilson, then aged eighty-two.

In 1935, the new church added a buff coloured brick veneer and was dedicated with daily church services during the week from May 12 until May 19.

The brick work was done by Alfred Radcliffe. When the church burned down, the bell was cracked

The Samuel Hurling Family



Sam Hurling (seated) and Mrs. Hurling in black dress. The other 3 women are sisters of Mrs. Hurling.

Samuel ('Sam') Hurling was a nephew of **Henry Hurling**. Samuel ('Sam') Hurling owned and operated an ice cream parlour, a boat livery where he rented out boats on Bala Bay, between the North and South Falls and also an ice house on the waterfront on Lake Muskoka.

When the C.P.R. was being built in 1906, his building was in direct line of where the tracks were to be laid, so he moved his business and residence to the large lot, more commonly known in later years as where Gerry Dunn's Dance Hall was located.

Sam held dances on an open dance floor in a beautiful grove of Pine trees, decorated with Chinese lanterns. It made a pretty sight. This property was later sold to Mr and Mrs Walter Langdon.

Later, Gerry Dunn built his dance hall on this site.



Transportation



People and canoes below Bala Falls

In the early days, transportation in Muskoka was by horseback riding through the bush or by canoe on the rivers and lakes. As more pioneers began to settle on their new lands, primitive roads were built. Some of them were log roads (logs laid side by side), especially good in wet or marshy areas.

It wasn't long before horse-drawn buggies were using these roads, as well as horse drawn wagons used by grocery and supply stores and the Post Office. The pioneers were no longer isolated.

Next came the 'Puff 'n' Billies' steam trains which opened up Canada, bringing supplies and people, especially in Muskoka, to build hotels and tourist guest houses. By now, the flood gates of tourists were wide open as people found out that Muskoka was 'The' place to go for summer holidays, fishing and hunting. Tourists came from all over Canada, the U.S.A., Great Britain and even Germany. These people enjoyed the rest, relaxation, good food, good drink and enjoyable things to do each day, with the result that these same people returned year after year to the same location.



Mrs McDivitt on left. Mrs McAllister on right. Horse 'Kitty'. 'New Windsor Hotel' in background

About The Authors



Lorne, a watercolour artist and wood carver, first came to Bala at the age of six weeks.

He and Bunty were married fifty-seven years ago and their grand children are the fifth generation to enjoy their summers on the same property which has been in the family for over a hundred years.

Lorne and Bunty have lived permanently at their Bala cottage/home for the past thirty-four years and have a deep love for Bala. They have done a lot of travelling - but have never found anywhere that could compare with Muskoka.

Their roots and those of their family are very deeply rooted in Bala. At Bala's 125th anniversary on June 13, 1993, they were awarded certificates naming them as being Bala's historians. They both feel deeply honoured.

This book has truly been a labour of love.

