



The Backbone

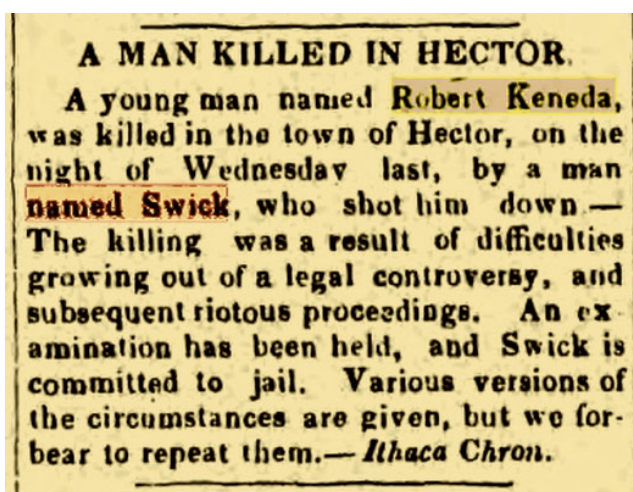
A publication of the Backbone Ridge History Group of Schuyler, Seneca, and Tompkins Counties

BECAUSE HISTORY MATTERS

CONFLICT AND DEATH ON HECTOR LOT 94

BY ALLEN DISE

While researching our family's history, my brother came across this item in the Wednesday, August 16, 1843, issue of The Bee newspaper of Ovid, New York:



Our great-great-great-great grandfather was named Robert Kennedy (variously spelled "Kenneda," "Keneda," etc., but we will be using "Kennedy" here). He, his wife Maria "Mary" Updike and their children had settled in Hector around 1816. They had previously moved from New Jersey in 1801 with Mary's extended family, initially living near what is now Trumansburg.

We knew, however, that the unfortunate "young" Robert in the 1843 news item was not our direct ancestor. Our ancestor Robert Kennedy was then about age 69 and died six years later. He and his wife Mary are buried in the McIntyre Settlement Cemetery south of Mecklenburg in Hector.

So, who was this young "Robert Keneda"? What was the "legal controversy" that somehow led to his death? What exactly happened that night? And, ultimately, what was the outcome for the individuals and families involved?

The man "shot down" in 1843

Subsequent research — the time frame, the location, the conflict itself — clearly showed that the shooting victim was a member of the Robert and Mary (Updike) Kennedy extended family. But to specifically answer how he was related, we searched for additional newspaper reports, and we took a closer look at Robert and Mary's immediate family. (Continued on page 3)

INSIDE THIS ISSUE:

Conflict and Death on Hector Lot 94	1, 2-9 10
President's Update	2
Roof project photos	10 11

Stay tuned for announcements on BRHG's 2024 programs!

Greetings to all members and subscribers to the Backbone Ridge History Group newsletter!

As of the date of the publishing of this newsletter, I am no longer the President of the Backbone Ridge History Group. After serving as your president for three years beginning in 2021, it was time for me to step back. Harold Bush, who served as our Vice President is now the President of the group. I will remain on as a trustee on the board. Other officers remain the same this year, with Sandra Bradford serving as Secretary and David Smith as Treasurer. The others serving along with them on Board of Trustees are: William Sebring, Joann Neal, Kari Gauntt and I. Kari Gauntt is our newsletter editor.

I am proud to say that we have steered this valued history group through some tough times, including the years of the pandemic, when we were very limited on what we could do in terms of bringing historical programming to the Backbone Ridge area. But we persevered and met in person sometimes and via Zoom other times, and brought what programming we could. We had a full season of public programs beginning in the fall of 2022, and throughout 2023, and plan to continue through 2024. I wish to give a personal thank you to all who gave of their time and energies to this worthy endeavor. Mark Brown was our program coordinator in 2022 and in 2023 and I was responsible for coordinating the programs. All of our officers and trustees worked hard to make sure we had programs to present to the public. Also, of great help to us was the space provided to us at the Logan's Landmark with the invaluable assistance of James Jensen. We also had programs at the Hector Presbyterian Church, the Ulysses Historical Society and the Lodi Historical Society buildings.

The group also sponsored a committee led for a number of years by the late Robert Kibbee of Mecklenburg and conceived by him and Allan Buddle for the purpose of transcribing the original military lots surveys. Programs describing the work and efforts by that committee were presented in the fall.

As the outgoing president, I wish to thank all who have contributed to these efforts. As always, we look forward to having more interested people join us, either as new members of the board, or in any capacity or in the form of donations. If you can contribute to our efforts, please contact Harold Bush at: (607) 227-8994 or e-mail him at haroldbush95@gmail.com

As in all things there are some times when rain must fall, and that was certainly the case after some of the roofing of the building where we meet in Lodi and where we store historical archives (the old telephone office building and one time law office) was ruined. Thanks to insurance and some donations, we were able to replace the roof as shown in the photo below but in the interim as we waited to get enough funding, we got rain damage from the roof which was leaking even after some temporary repair work was done. Further maintenance of the building is needed, so any donations for that purpose would be very welcome. Also, as can be seen in the photos, (see page 11) there are several trees growing too close to the building that need to be taken down. We are in the process of getting work done on the front step as well. Even as we look forward to those projects, we celebrate the fact that the new roof is completed and looks so good!!

Respectfully submitted, Charlotte Dickens
Backbone Ridge History Group, Board of Trustees Member

BY ALLEN DISE
(CONTINUED FROM PAGE 1)

"Robert P. Kennedy" was named as the shooting victim in a later newspaper story about the coroner's inquest. He was described as 21 years old, so born about 1822 or 1823. He was not married, but it seems he had a wedding planned for the following week!

Four sons of Robert and Mary (Updike) Kennedy — William, Abram, Enoch and Elias — had living sons in 1843. Abram had a son named Robert who was still alive in 1856 (listed in his father's will). Enoch's two sons at the time were only in their mid-teens. And Elias's son Robert lived until 1917. That leaves William as almost certainly the father of the young victim. William was his father Robert's oldest son, and lived next door, very close to the site of the shooting. Although children were not listed by name, all four censuses from 1825 to 1840 imply William had two sons, both born between 1820 and 1825. In records after the fatal shooting, only his son Oliver has been identified as still living. Oliver was born in 1821, suggesting the slain Robert was Oliver's younger brother.

And William Kennedy was very much caught up in the family's "legal controversy."

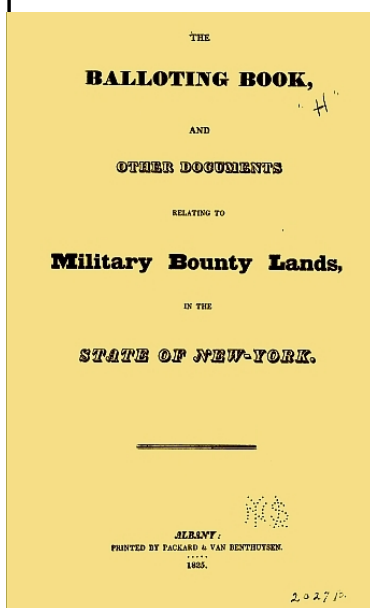
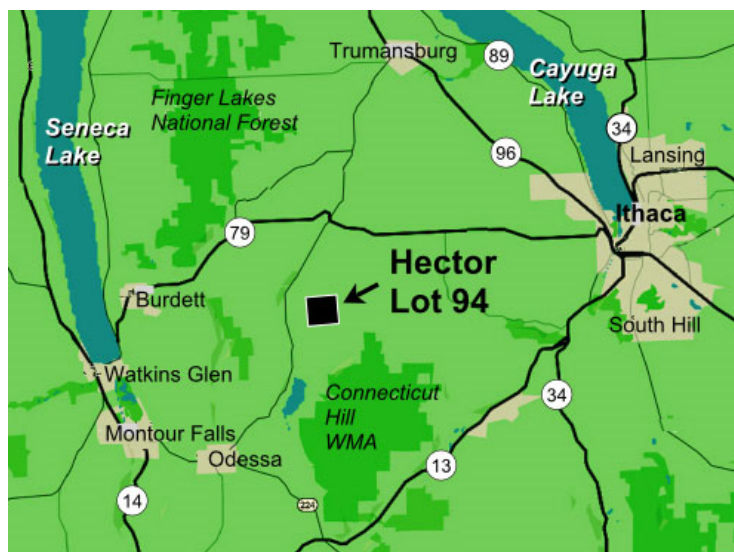
The 'legal controversy'

What were the legal troubles? New York Supreme Court records yielded some answers. In December 1842, just nine months before the fatal shooting, the Court had ruled against Robert Kennedy — certainly the grandfather of the shooting victim — in his quest to establish ownership of the 113 acres he had paid for in 1816-1817 and lived on and cultivated for more than a quarter century.

The issues involved go back before Robert arrived on the scene, back to the original Military Tract and the awarding of lots to Revolutionary War veterans and their heirs. The procedure for awarding the land was problematic, with widespread fraud. Many patents were sold multiple times, and the courts were initially overwhelmed with disputes. For an overview of the Military Tract balloting, see the excellent articles by Sylvia Hasenkopf and Robert Kibbee in the March 2017 issue of this newsletter.

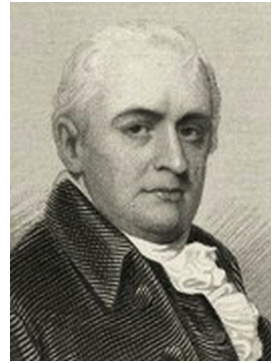
Robert Kennedy's farm was located on Hector Lot 94, one of the 600-acre lots of the original Military Tract survey. In the 1790 balloting, Lot 94, Township 21 (Hector), was awarded to Peter Oosterhoudt, a Revolutionary War soldier who had died in September 1777. By 1796, John Osterhout Jr, "only son and heir" of Peter Oosterhoudt, had sold Lot 94 to land speculators.

And by 1815, Lot 94 was owned by H. Brockholst Livingston, a wealthy lawyer and land speculator from New York City. He was also at the time a U.S. Supreme Court Justice, appointed by Thomas Jefferson in 1806!



BY ALLEN DISE
(CONTINUED FROM PAGE 3)

In May 1815, with a one-year mortgage contract, Livingston sold Lot 94 to Jacob Radcliff who was then the mayor of New York City, a prominent attorney, and a former justice on the New York State Supreme Court.



JACOB RADCLIFF

In 1816, Jacob Radcliff sold 113 acres of Lot 94 to Robert Kennedy, then about 30 years old. Kennedy had been living in the neighboring town of Ulysses with his wife and children. What he apparently didn't know was that Radcliff had defaulted — or was about to default — on the mortgage with H. Brockholst Livingston. Ownership of Lot 94 then reverted to Livingston. But Jacob Radcliff continued to sell parcels of Lot 94 to individual farmers as late as 1821.

In 1822, a woman named Eleanor Horton (also known as "Eleanor Tallowday") added another layer of complexity. She was living in Painted Post, New York, and as "daughter and heir at law of Peter Ousterought," claimed ownership of all of Lot 94. This was a quarter century after John Osterout Jr., the "son and heir," had sold Lot 94 to speculators. Did Eleanor Horton have inheritance rights that had previously been ignored? This is a mystery, as we have not yet located records of her arguments nor further evidence for her claim.

In any case, in December 1822, Eleanor Horton attempted to evict Robert Kennedy as well as, presumably, the other individual landowners on Lot 94. It seems Kennedy initially attempted to negotiate with Eleanor Horton. And while doing so, in February 1824 he apparently acknowledged Horton's ownership.

Later that year, in October 1824, Eleanor Horton sold all of Lot 94 to George Gardner of Big Flats, New York. Gardner was another prominent and successful character entering this saga. He has been described as once "the most wealthy and prominent citizen of Big Flats." Not intimidated, Robert Kennedy accused George Gardner of fraud against Eleanor Horton.

In 1830, still claiming the sale to Gardner was invalid, Robert Kennedy and his neighbors negotiated directly with Eleanor Horton. Fearing also that Jacob Radcliff's title had not been valid in 1816, Kennedy and several of the neighboring farmers signed agreements to purchase their farms directly from Horton in March and April of 1830. The resulting deeds suggest that they actually paid Horton at that time. However, in one mortgage agreement, Kennedy and neighbors John Saylor and Thomas Morris stipulated that Horton must first "have legally established her Title to the lands." Only Morris is recorded as having his portion of the mortgage discharged, suggesting he was the only one to make payments.



H. BROCKHOLST LIVINGSTON

Meanwhile, George Gardner continued to claim possession of Lot 94. Then, in 1831, yet another person claimed ownership.

In March 1831, Asgill Gibbs, a prominent lawyer in the nearby town of Ovid, purchased the entire Lot 94 from the estate of U.S. Supreme Court Justice H. Brockholst Livingston. Recall that Livingston, who died in 1823, had apparently retained ownership after Jacob Radcliff defaulted on the mortgage fifteen years before. Acting for Livingston's daughter and executrix, Asgill Gibbs had the previous year placed a newspaper notice in the Ithaca Journal & General Advertiser announcing that Lot 94 would be sold at auction the following March. Gibbs was apparently either the highest bidder or separately agreed to purchase Lot 94 himself.

(cont'd on page 5)

CONFLICT AND DEATH ON HECTOR LOT 94

BY ALLEN DISE
(CONTINUED FROM PAGE 4)

Again not intimidated by the wealth or status of his adversaries, Robert Kennedy sued both George Gardner and Asgill Gibbs. Besides claiming fraud on the part of Gardner, Kennedy also attempted to establish ownership of his farm by adverse possession, having occupied the land since 1816. Asgill Gibbs represented both himself and Gardner as the respondents in the suit.

Kennedy lost, the judge saying that the allegations of fraud had not been proven, and that Kennedy had given up any right of adverse possession by admitting Eleanor Horton's ownership a few months prior to her sale to Gardner in 1824. Kennedy appealed to the New York State Supreme Court, which in December 1842 upheld the lower court's decisions, ruling in favor of Gardner and Gibbs.

Robert Kennedy, then nearing 70 years of age, was not giving up. He planned to continue fighting in court. Indeed, as late as 1847 a schedule of "causes" to be considered by the New York Supreme Court included "Robert Kennedy vs George Gardner."

What was at stake?

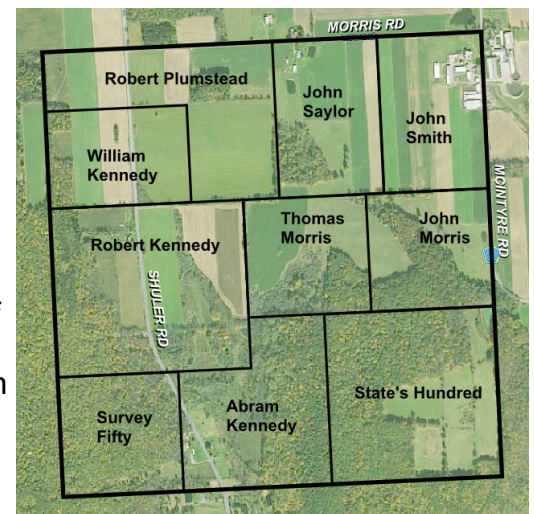
After moving his young family to the wilds of Hector in 1816, Robert Kennedy and his wife Mary invested years of labor to clear the land, build their house and barns, and establish their farm. By the time Eleanor Horton sold the entire Lot 94 to George Gardner in 1824, Robert and his family had made tremendous progress. The 1825 New York State Census credits them with 50 "improved" acres and details an impressive list of livestock including four horses, as well as oxen, sheep and hogs. In their home they produced many yards of woolen, linen and cotton cloth.

On the neighboring farm, their son William Kennady, almost certainly the father of the young shooting victim, was farming 18 "improved" acres in 1825. William Kennedy and his wife Abigail were about 27 years old, with two young sons under age 5. They owned two horses, five oxen, 16 sheep and a half dozen hogs. They, too, had built a house and barns, and were making their own woolen and flannel cloth.

During the next ten years, while continuing to contest others' claims of ownership, Robert Kennedy and his son William expanded their farms, both in terms of cleared acreage and livestock. Robert Kennedy's other sons had also established nearby homes and farms: Abram also on Hector Lot 94, Enoch just north of Lot 94, Elias and Gilbert south of the Lot 94 line.

Surely by the time of the December 1842 court ruling, after 20 years of legal battles, Robert Kennedy and his family were desperate not to lose decades' worth of their labor, struggles and investment. Their legal situation was complicated by the presence of at least one tenant on the farm who was, by the time of the 1843 shooting, paying rent to Asgill Gibbs of Ovid and George Gardner of Big Flats. Had the Kennedys become desperate enough to bully and harass an innocent tenant?

John Swick, the shooter, had been farming on the Kennedy land for a few years. He had a wife and three young children. But, for the sake of their continued legal battles, the Kennedys wanted the Swick family off their land. Newspaper stories and court testimony certainly suggest that the Kennedys had harassed and threatened the Swick family. Those actions apparently culminated in the tragic event of August 9, 1843.



LOT 94 PROPERTY LINES 1829

(cont'd on page 6)

BY ALLEN DISE
(CONTINUED FROM PAGE 5)

'O God I've been shot'

Two versions of the deadly confrontation were offered at the coroner's inquest and reported in newspapers as far away as Philadelphia and New York City. The first version, recounted here in a letter published in the New York (City) Tribune, is based on the testimony of Robert P. Kennedy's confederates. The second aligns with the testimony of John Swick, who in many ways was also a victim here.

THE MURDER IN TOMPKINS CO.

Ithaca, Aug. 26, 1843

To the Editor of the Tribune:

In your paper of the 29th inst., you published an article taken from the Chemung Whig relative to the shooting and consequently the death of Robert Kenedy which is anything but according to the testimony taken at the inquest, and on the examination of Mr. Swick the day following.

The fact as sworn to are, that on the evening of the death of Kenedy, Newman, Arnold, John Plumpstead and Robert Kenedy, who had been mowing that day, hearing that some of Mr. Saylor's friends were going to Swick's that night, crossed over the field from Plumpstead's until they came to Swick's barn, about 50 yards from his house, where they stopped, and all was still and quiet. It being about as light as day, they saw Swick coming towards them. When he came up said, 'good evening, Newman,' and Newman replied 'Good evening, Mr. Swick;' when Kenedy says, 'What are you going to do with that gun, Mr. Swick?' who replied, 'I am going to use it;' and at the same time presents a horse pistol to Plumpstead's face, and within six inches, and fires, or rather the cap exploded, making a loud report, Swick springing back a few yards at the same instant that Plumpstead, springing forward, fell, and Swick discharged a musket in the side and heart of Kenedy, who exclaimed, 'O God! I am shot!' and falling, was caught by Arnold.

The above was sworn to by Arnold and Plumpstead, who further swore that Swick walked back to the house. James Misner testified Swick came to his house (about 40 rods down the road) and called (Misner) out and told him he had shot Kenedy, and took him to the spot, and showed him how they all stood; fully corroborating the testimony of Arnold and Plumpstead. I myself visited the ground next morning in company with Mr. Burr Wheeler and Minor Colgrove, Esq. and I think you will do but justice to give this a notice in your widely circulated and much read paper.

The letter-writer referenced a *Chemung Whig* story that was reprinted widely, including in the New York Tribune. The following is transcribed from the Rochester *Daily Democrat*. The narrative differs significantly from the testimony of Arnold and Plumstead but seems to essentially be John Swick's testimony at the inquest. The story itself offers additional background and includes rather colorful descriptions of some of the characters:

MURDER.

On Wednesday last a man named Robert Kennedy, was shot near McIntyre Settlement, about ten miles northeast of this village [Havana – now Montour Falls]. As near as we can learn, (and we have them from a gentleman of respectability living near the place,) the particulars are as follows. It appears the Kennedys formerly owned the place on which Swick has resided for a number of years, as a tenant of the Kennedys, and that through a course of law, the farm was last fall taken from the Kennedys by Asgill Gibbs, of Ovid, Seneca Co., and George Gardiner, of Bigflat [Big Flats], when Swick became a tenant under Gibbs and Gardiner.

(cont'd on page 7)

BY ALLEN DISE
(CONTINUED FROM PAGE 6)

It seems the Kennedys wished to commence another suit to get possession of the farm again, but deemed it important that they should hold possession at the time of commencing the suit, and accordingly, undertook by threats of personal injury to drive Swick from the premises, and did at various times commit outrages on the property of Swick, until he finally removed from the place; but the Kennedys were not yet satisfied.

On Wednesday last, they procured the services of a John Plumstead, and one or two other noted scoundrels, blacked themselves, and went to where Swick was at work in a field near the premises, to mob. When they came up to Swick they were so blacked that he did not know them, until Plumstead spoke, when he knew P. by his voice, guessed their object, drew a pistol and snapped it in P.'s face, but it misfired. Plumstead still advancing, Swick stepped backwards, threw down the pistol, and levelled a musket at P. and fired. At the instant he pulled the trigger, P. stumbled and fell, and the ball designed for him, struck Kennedy and entered his heart, killing him instantly.

We understand that Swick and Kennedy were both respectable men. Plumstead lived in this place till very recently, is a notoriously bad character, and has escaped going to Auburn [the state prison at Auburn] very narrowly, for crimes committed here. An idea may be formed of P.'s character by remarks made in our streets almost hourly, as to its being a great pity that the pistol snapped in his face did not go off. Another of Kennedy's confederates was a drunkard and rowdy by the name of Scott. Both of these men were hirelings.

The place of death is in Hector, Tompkins Co., near the town and county line.

We understand that Swick has been bound over for trial at the next session of the Tompkins Co. circuit court.

Rumor says that Mr. Kennedy was to have been married on Sunday last.



Robert Kennedy's signature, 1830

Final outcomes

John Swick was indicted for manslaughter. We have yet to locate court records or newspaper reports regarding the verdict or sentencing. But the 1850 census lists Swick as residing in Hector with his wife and their four children, including nine-month-old Mary. Perhaps a clue is the six-year gap between his next oldest child and infant Mary. That gap could, of course, be explained by any number of circumstances. Infant deaths, for example, were certainly not unusual. Indeed, there is an even longer gap after Mary's birth. The 1855 state census lists no additional children, then in 1860, only one more child is shown, nine years younger than daughter Mary.

Before the birth of that youngest child, John Swick and family had moved to Michigan where he died in 1891 according to unsourced genealogies. It is interesting to note that Swick's wife was Naomi Updike, a niece of Robert Kennedy's wife Mary Updike and first cousin of young Robert P. Kennedy, the shooting victim.

What about the other farmers of Hector Lot 94? Asgill Gibbs and George Gardner ultimately prevailed in court. While both had individually claimed ownership of the entire Lot 94, each ended up with half. Robert Kennedy was continuing legal actions, but in May 1845, Gibbs sold the north half of Lot 94 to Gardner, and Gardner sold the south half to Gibbs. After that, the Lot 94 farmers would need to re-purchase their land from either Gardner or from Gibbs, or pay rent, or continue legal action.

(cont'd on page 8)

BY ALLEN DISE
(CONTINUED FROM PAGE 7)

Robert Kennedy died in August 1849, at age 75. His wife, Mary (Updike) Kennedy died three months later. Their son Gilbert Kennedy was a successful farmer just south of Lot 94 in Hector. Curiously, in June 1849, shortly before Robert Kennedy's death, a deed shows Gilbert purchasing his father's 113 acres directly from Robert. Was this a legally meaningless act of kindness, a final nod to Robert's belief in his ownership of his farm? As far as I can determine, both Robert Kennedy and his wife died in their home on the family farm.



GILBERT KENNEDY

The following year, in 1850, Gilbert Kennedy officially purchased his father's farm from the heirs of George Gardner, who died in 1848. Previously, in 1845, Abram Kennedy, son of Robert and brother of Gilbert, bought the northwest corner of Lot 94 from Asgill Gibbs. That 50-acre parcel had been part of their brother William Kennedy's farm. Confusingly, in January 1846, deed records show Oliver Kennedy (son of William and brother of the slain Robert P. Kennedy), buying the same 50 acres, plus an additional 25 acres, from Asgill Gibbs. Later that month, Gilbert Kennedy signed a "release and quit claim" to Oliver Kennedy for those 75 acres, referred to in the document as "commonly called the Wiliam Kenneda Farm."



William Kennedy, age 52 in the 1850 census, was still the head of a household in Hector, and presumably still in his home. The census lists his wife Abigail, also age 52, and their 19-year-old daughter Catherine. But, by the 1855 state census, he and his wife Abigail were living in their son Oliver's household in the Town of Veteran, Chemung County. Also in that household was William and Abigail's daughter Catherine and Catherine's three-year-old daughter, as well as Oliver's wife and four-year-old daughter. Plus, interestingly, an adopted 10-year-old boy named "John Plumsted."

Recall that a man named John Plumsted was involved in the shooting death in 1843. He was described in a newspaper account as a "notoriously bad character." We haven't determined the relationship to the adopted John Plumstead, but during the 1820s, William Kennedy had purchased 50 acres from his neighbor Robert Plumstead. In 1821, Robert Plumstead had, like Robert Kennedy, purchased his original acreage on Lot 94 from New York City Mayor Jacob Radcliff who had defaulted on his mortgage with H. Brockholst Livingston five years before!

(cont'd on page 9)

BY ALLEN DISE
(CONTINUED FROM PAGE 8)

In 1860, William Kennedy and his wife Abigail, both then 63 years old, are listed in their own household in the Town of Veteran, with their 29-year-old daughter and eight-year-old granddaughter. By the 1865 New York State Census, William had died, leaving his widow Abigail as head of household with their daughter and granddaughter. In 1870, Abigail was living with by then married daughter Catherine in Allegany County, where she presumably died in her mid-70s.

Despite the decades of legal battles and the shooting death of their son, it seems William and Abigail spent their final years surrounded by family. Sadly, the same cannot be assumed for their neighbor Thomas Morris. Thomas and his father John Morris had each owned 43-acre farms, just to the east of Robert Kennedy's 113 acres. John Morris was in the same generation as Robert Kennedy, and, indeed, died the same year, in 1849. John and Thomas Morris were part of the 1830 negotiations with Eleanor Horton, and undoubtedly had faced the same threats of eviction and expensive legal battles, as evidenced by Thomas Morris's obituary in the Havana Journal (now Montour Falls):

Died, at Cayutaville, March 23, 1880, Hon. **Thomas Morris**, who lived to the good old age of 86 years. He was an early settler in the town of Hector, and once a well-to-do farmer, but in his old age met with misfortune by many years lawing with land claim holders and finally lost all his property and became a charge upon the town of Catharine in 1874, and has since been well cared for and respectably buried.
R. L. CATLIN, Overseer of Poor.



Left: Headstones of Robert and Mary Kennedy

(cont'd on page 10)

CONFLICT AND DEATH ON HECTOR LOT 94

BY ALLEN DISE
(CONTINUED FROM PAGE 9)



Kennedy land with author, Allen Dise

Allen Dise is the former Deputy Historian of the Town of Gorham, Ontario County, New York. He and his wife own an 1831 home which was listed on the National Register of Historic Places in 2009.

A fully annotated version of this story, with citations and sources, is available from the author. allendise@gmail

RIGHT:
Roof work being done
on the BRHG
building in Lodi.





LEFT
Roof work being done on the BRHG building in Lodi.

Stay tuned for announcements on BRHG's 2024 programs!



We need you!

The Backbone Ridge History Group needs **you** to

- serve on the Board;
- help plan & run events;
- write newsletter articles;
- research and write grants; and
- plan for the future.

Can you help?

If so, please email backboneridgehg@gmail.com or call Charlotte at 910-988-2268.

Your assistance is vital to our continued work.

Backbone Ridge History Group
PO Box 62

Trumansburg, NY 14886

President: Harold Bush

Vice President: vacant

Secretary: Sandra Bradford

Treasurer: Dave Smith

Trustees: Harold Bush,
Sandra Bradford, Charlotte

Dickens, Kari Milliman Gauntt, Joann Neal,
Bill Sebring, David Smith

Newsletter Coordinator: Charlotte Dickens

Editor: Kari Milliman Gauntt

Webmaster: Dan Huston

Attic Sale

At Logans Landmark
Burdett NY

May 3rd & 4th
GOOD PRICES
ON QUALITY
DONATIONS