

Sauble river, in the said village, but which had been carried away by a freshet.

The plaintiffs alleged that Mill street, with the bridge formerly thereon, was the only practical highway to and from their respective lands situate on the south side of the river; and that, because of the nonrepair of the highway and bridge, they had been damnified.

The defences were that Mill street, with the bridge thereon, was laid out by private persons, and never became a public highway; and that, even if it did, the defendants were not liable.

The appeal was heard by MULOCK, C.J.Ex., SUTHERLAND, MIDDLETON, and LEITCH, JJ.

C. A. Moss, for the plaintiffs.

D. Robertson, K.C., for the defendants.

The judgment of the Court was delivered by MULOCK, C.J., who, after setting out the history of the case and reviewing the evidence, proceeded:—

On the facts disclosed in this evidence, one question to be determined is, whether Mill street, including the bridge, is a highway under the jurisdiction of the defendant corporation, and which they are bound to keep in repair. It was not an original road allowance, but was laid out by private individuals; and, before the corporation can be liable, under sec. 606 of the Consolidated Municipal Act, it must appear that Mill street was "established by by-law of the corporation or afterwards assumed by public user," as provided by sec. 607 of the Act. The question of dedication is one of fact. The registration of the plans shewing Mill street; the specific reference on the plan of the 27th June, 1881, providing for its continuance southerly to the lane; the sale of lands according to these plans; the uninterrupted user of Mill street by the general public as a highway since the year 1868; and the performance of statute labour on it over a considerable number of years—constitute unmistakably an offer of dedication. And the action of the council, in the years 1894 and 1899, in voting money for the repair of the bridge, in causing those repairs to be done, and in paying therefor, are, I think, referable to one thing only, viz., acceptance of the order of dedication, and constitute an assumption of the bridge and street for public user by the defendant corporation, within the meaning of sec. 607: *Hubert v. Township of Yorkmouth*, 18 O.R. 458; *Holland v. Township of York*, 7 O.L.R. 533.