

FIRST DIVISIONAL COURT.

FEBRUARY 7TH, 1917.

\*RE TOWNSHIP OF ASHFIELD AND COUNTY OF HURON

*Municipal Corporations—Liability of County Corporation for Maintenance and Repair of Bridge Built by Township Corporation—Municipal Act, R.S.O. 1914 ch. 192, sec. 449—Length of Bridge—Embankments not to be Included.*

An appeal by the Corporation of the County of Huron from an order of the Judge of the County Court of that county, made under sec. 449 of the Municipal Act, R.S.O. 1914 ch. 192, declaring that a bridge built by the Corporation of the Township of Ashfield, crossing Nine Mile river, is a county bridge.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and Ferguson, J.J.A.

C. Garrow, for the appellant corporation.

W. Proudfoot, K.C., for the township corporation, respondent.

MEREDITH, C.J.O., reading the judgment of the Court, said that the order left uncertain what was the bridge declared to be a county bridge. The road allowance between the 4th and 5th concessions of the township of Ashfield crosses a deep ravine about 1,500 feet in width, through which runs the Nine Mile river, and it also is crossed by the road allowance. The township corporation built a bridge (that in question) only 119 feet in length, and embankments at each end leading up to and from it. These embankments could not fairly and reasonably be called part of the bridge; the County Court Judge spoke of them as "approaches."

Section 442 of the Municipal Act indicates that the Legislature has treated the approaches to a bridge as something independent of the bridge itself, and it is reasonable to conclude, when in sec. 449 bridges are again dealt with, that it was intended that only the bridge itself, and not the bridge with its approaches, should be taken into consideration in determining the length of the bridge for the purposes of that section, which requires, among other things, that the bridge shall be of greater length than 300 feet.

This is not inconsistent with what was decided in *In re Mud Lake Bridge* (1906), 12 O.L.R. 159; but is opposed to the view expressed in *Re Township of Maidstone and County of Essex* (1908), 12 O.W.R. 1190, by a Divisional Court of the High Court.

The appeal should be allowed and the order below set aside with costs here and below to be paid by the township corporation, the respondent.