

MADDEN, Co.C.J.

DECEMBER 9TH, 1908.

COUNTY COURT OF LENNOX AND ADDINGTON.

GALLAGHER v. COUNTY OF LENNOX AND ADDINGTON.

*Highway—Non-repair—Injury to Horse—Liability of Municipality—Dangerous Condition of County Road by Reason of Accumulation of Snow and Ice—Pitch Holes and Ridges—Damages.*

Action for damages sustained by the plaintiff by injuries to his horse while travelling upon the highway leading from Napanee to Adolphustown, and known as the "Hamburgh Road."

W. S. Herrington, K.C., for plaintiff.

W. G. Wilson, Napanee, for defendants.

MADDEN, Co.C.J. :—The evidence establishes, and I find :—

1. That the road is a highway under the jurisdiction of the defendants, whose duty it was to keep it in repair.
2. That the plaintiff was, on 26th March last, lawfully upon the highway, going to Adolphustown from Napanee, and driving a team and cutter.
3. That this road, at a point about two or two and one-half miles south of Napanee, was on 26th of March last, and for many days previous thereto, in a very bad and dangerous condition, by reason of a large quantity of snow being allowed to accumulate thereon, and large pitch holes and ridges of ice on the travelled portion of the said road, which made it very difficult and dangerous for persons to travel thereon.
4. That this state of affairs was permitted to exist for some days previous to the accident, although this portion of the road was within the township of North Fredericksburgh and under the special supervision of the warden for the county. Thirteen witnesses for the plaintiff swear to the dangerous and unsafe condition of the road. One of them had to abandon his business and go searching around the township for another means of way so as to conduct his business; another had his horse hurt; another had an accident, and had to unhitch his horse; and another, who was the over-