

injuries sustained by plaintiff owing to negligence of defendants in not keeping in proper repair and in not protecting by a railing a bridge upon a road under their jurisdiction, by reason whereof plaintiff with his horse and carriage drove over the edge into the water below.

On 26th May, 1902, plaintiff gave notice to defendants that he had met with an accident on 7th May (instead of 6th May, which was the true date) at the bridge in question, which he described, stating that it was during a thunder-storm, and that a flash of lightning had caused his horse to swerve, and that "owing to the defective state of the bridge" he was thrown into the water; he further stated that he had rescued his horse, with the aid of Mr. Andrew Peckover, and that the accident could not have happened had the bridge not been defective by being void of a proper railing.

The action was tried without a jury, and judgment given for plaintiff for \$200.

The appeal was heard by STREET and BRITTON, JJ.

W. H. Kingston, K.C., for defendants.

A. G. MacKay, K.C., for plaintiff.

STREET, J.—The cause of the accident, as a matter of law and fact, was the negligence of defendants in not providing the bridge with a railing to prevent accidents of this kind. It is true that this particular accident would probably not have happened had not the night been dark and the lightning vivid at the moment the plaintiff's horse was on the bridge; but these are ordinary dangers to be provided for; and if defendants had done their duty in protecting the sides of the bridge, the accident would have been avoided; and therefore, they are liable.

The notice of accident given by plaintiff is sufficient to comply with the requirements of sub-sec. 3 of sec. 606 of the Municipal Act, when the object of requiring that notice is taken into consideration. . . . The notice should state the time and place of the accident with reasonable particularity, so as to identify the occasion, and so long as no mistake is made in either of these matters of a nature calculated to deceive or mislead the corporation to its prejudice, the notice will not be vitiated: see *Green v. Hutt*, 51 L. J. Q. B. 640; *Langford v. Kirkpatrick*, 2 A. R. 513.

In the present case the place was clearly described, and the date was identified by the circumstance of a thunder-storm having taken place and of plaintiff having obtained the assistance of Mr. Peckover. Moreover, there is no suggestion that the mistake in date misled defendants.

Plaintiff was an elderly man, and was suddenly