

and adjudged the relief asked for by plaintiffs against all the defendants.

I am, with deference, unable to agree with the finding against defendants the county of Lanark, which of course entirely depends upon whether, in the circumstances, the highway where crossed by the Wawa in the township of Fitzroy forms in law part of the boundary line road between that township and Pakenham. The evidence is undisputed that when the boundary line road between these townships was opened, it was so opened only along the true boundary line, until it reached the already existing travelled road around the bend, where it stopped, as I think it might properly have done, without the consequences following which are contended for by plaintiffs.

With reference to the other branch of the case, I agree with the conclusion reached by the Chief Justice. The merits lie entirely in that direction, and the law is not, I think, subjected to any undue strain in so holding. Sec. 617, sub-sec. 1, of the Municipal Act, 1903, prescribes the alleged duty, and sub-sec. 2 declares that "a road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of this section, although such road may deviate so that it is in some place or places wholly within one of the municipalities, provided that such deviation is only for the purpose of getting a good line of road, and a bridge built over a river, stream, pond, or lake, crossing such road where it deviates as aforesaid, shall be held to be a bridge over a river, stream, pond, or lake, crossing a boundary line, within the meaning of this section."

The present amendment, 3 Edw. VII. ch. 8, sec. 131, has apparently only declared in statutory form that which had been long ago held by the Courts to be the proper construction of the statute: *In re County of Brant and County of Waterloo*, 19 U. C. R. 450; *County of Victoria v. County of Peterborough*, 15 A. R. 617; and does not, in my opinion, affect the questions involved in this action. The appellants' main contentions, as I understand them, are: (1) that to constitute a deviation road there must be joint action by the local municipalities charged with the duty of opening up and maintaining the original allowance of road, in originating the deviation; and (2) that a road which has its origin in some other motive than to obtain a good line of road cannot legally