

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

Glyn Osler, for the appellant corporation.

R. T. Harding, for the plaintiff, respondent.

W. D. McPherson, K.C., for the defendants the Corporations of the Townships of Downie and South Easthope.

R. S. Robertson, for the defendant the Corporation of the City of Stratford.

The judgment of the Court was delivered by GARROW, J.A.:— . . . The main difficulty in the case seems to be, not so much as to what may be called the merits of the plaintiff's claim, but as to which of the four municipalities should be held responsible.

The contention by counsel for the county corporation is, that the Downie road, which runs north and south and is the township boundary-line between the townships of South Easthope and Downie, as assumed by the county corporation, ends towards the north at the southerly limit of Lorne avenue, which runs east and west and is the boundary-line between the two townships on the south and the city of Stratford on the north; and sec. 19 of the Highway Improvement Act, and the dictionaries as to the meaning of the word "intersects" in that section, were referred to before us. The meaning of that section is, I think, quite plain: "intersect" is used in the sense of "crossing" or "passing across," with the result that there is "county road" on each side of the highway so intersected. That, however, is clearly not this case; and the section has, therefore, in my opinion, no application. . . .

Nothing in the language of the by-law, in my opinion, compels us, acting upon legal principles of construction, to adopt the contention of the county corporation as to the northerly limit of the highway assumed thereby. . . .

The conclusion of the learned Chief Justice, placing the responsibility for the plaintiff's injury upon the county corporation, is correct. I also agree generally with his reasoning and conclusion as to . . . the merits of the plaintiff's claim, and I have very little to add.

The one point upon which I had some doubt was, whether the conduct of the plaintiff on the occasion in question was so reasonable as to excuse him from the charge of having contributed to the result from which he suffered. The night was