

These are provided by secs. 668-9 and enumerated in 672 (4), which provides that no work shall be undertaken unless initiated in one or other of these three methods. When so initiated the work may be undertaken upon a by-law being passed under sec. 664, but such a by-law is always necessary.

Section 677, as amended in 1906 (ch. 34, sec. 38), and in 1908 (ch. 48, sec. 23), is a statutory provision of later origin, and, "notwithstanding any statute," enables a municipal council, by a vote of two-thirds of all its members, to undertake the construction of a pavement as a local improvement, without proceedings being initiated in any of the three ordinary ways, if it is deemed necessary in the public interest; but this section does not in any way dispense with a by-law under sec. 664, and its ancillary provisions. In the cases falling within its provisions, a fourth method of initiation is provided—enabling the work to be undertaken where necessary in the public interest, quite apart from the will of the ratepayers. A by-law is still clearly necessary.

I have not considered the validity of the by-laws in question, as this is not necessary if I am right in the view expressed.

For reasons given upon the argument, I do not think the plaintiffs entitled to any relief upon the question raised as to the location of the sidewalk—this is a question solely for the council.

An injunction will, therefore, go to restrain the construction of the works in question, unless and until a by-law is passed in accordance with the requirements of the Municipal Act authorising their construction.

As a good deal of material relates to the branch of the case on which the plaintiffs fail, while I give them costs, I fix them at \$60.

DIVISIONAL COURT.

SEPTEMBER 29TH, 1910.

CHRISTIE v. RICHARDSON.

Master and Servant—Injury to Servant—Workmen's Compensation Act—Gangway Widened by Stranger and Left in Unsafe Condition—Absence of Knowledge on the Part of Master—Appeal—Reversal of Finding of Fact.

Appeal by the defendant Webb from the judgment of MEREDITH, C.J.C.P., 1 O. W. N. 689.

The appeal was heard by BOYD, C., LATCHFORD, and MIDDLETON, JJ.

G. H. Watson, K.C., for the appellant.

A. J. Keeler, for the plaintiff.