

township, by way of local assessment, sums required for certain local improvements.

In 1903, this legislation was supplemented by the addition to the Municipal Act of sections found as secs. 751 and 757 in the Consolidated Municipal Act of 1903. By sec. 751, when the census return of the police village shew that it contains over 500 inhabitants, then, upon petition, the council of the county may declare the trustees of the police village a corporation; and, after the passing of such a by-law, certain additional powers are given to the incorporated board. It may construct works as local improvements under secs. 664 et seq. of the Municipal Act; and, after incorporation, the board becomes responsible for the maintenance and repair of all works, improvements, and services undertaken by it; and the board is made responsible for damages sustained by reason of any default; and the provisions of sec. 606 of the Act are made to apply to the incorporated board.

This amendment goes to fortify the view I have expressed of the true position of trustees of a police village under the earlier Act.

It follows from this, that the defendant municipality is responsible for the condition of all roads within its limits, under sec. 606; and that the fact that the trustees of the incorporated village have authority to construct sidewalks and to repair them, within the limits of the village, does not absolve the township from its primary liability. The lack of repair resulting in an accident imposes liability upon the entire municipality; and, while this is in one sense, unfair, it is no more unfair than the situation which arises when any work constructed as a local improvement falls into disrepair. There the municipality as a whole is liable for the lack of repair in a work constructed as a local improvement. If the trustees of the police village fail to renew a decayed sidewalk, the township is not justified in leaving it as a source of danger, and may remove it altogether. . . .

[Reference to *Faulkner v. City of Ottawa*, 8 O.W.R. 126, 10 O.W.R. 807.]

I, therefore, determine the question in favour of the plaintiff, and direct that the costs be paid by the defendants in any event of the litigation.

If the defendants desire to take the opinion of an appellate Court, I suggest to the parties the wisdom of allowing the remaining issues to be determined before an appeal is taken, so that the whole matter may be reviewed upon one appeal. This may readily be accomplished by an order extending the time for appealing this decision until the issues of fact are determined.