

*Semble*, that as the manner in which the drain was filled in made it certain that in the event of a rain the earth would sink, the defendants must be assumed to know that some one to protect the public would place posts or other covering over the hole; and were liable for any injury resulting. *Duck et ux. v. The Corporation of the City of Toronto*, 295.

2. *Way—Short Form Act—Continuous easement—Way of necessity—Highway—Statute of Limitations.*—S. by his will devised his farm to trustees, who divided up the property into six several parcels, designated parcel 1, parcel 2, &c., according to a plan which was registered, and by contemporaneous conveyances under the Short Form Act conveyed the parcels to the testators' six surviving children. The description of parcel 2, included the lane in question, described as a right of way, the use of which was thereby reserved to the owners of parcels 4 and 6, to which it was a way of necessity. Parcel 3, which adjoined the way, was conveyed without any mention of the lane. During the unity of title some farm buildings stood upon parcel 3, adjacent to the lane in question, which was used as a means of ingress and egress thereto, but they had long since disappeared. By the Short Form Act, R. S. O. ch. 102, sec. 4, every deed, unless an exception be made therein, shall be held to include all ways, easements, and appurtenances whatever to the lands therein comprised, belonging or in any wise appertaining, or with the same, held, used, occupied, and enjoyed.

*Held*, that the defendant claiming under the grantee of parcel 3, could not claim a right of way over the lane: that sec. 4 of the Short Form Act could not, under the circum-

stances, be deemed to apply: that the right of way was not a continuous easement, or way of necessity; and that plaintiff's right thereto was not barred by the Statute of Limitations.

*Held*, also, that the defendant, as owner of part of parcel 4, could not claim the right to use the way as appurtenant to parcel 3. *Maughan v. Casci*, 518.

3. *By-law—Closing street—Providing access to the lands adjacent—Month's notice—Arbitration.*—A by-law was passed by the defendant municipality to close up and grant to a railway company a portion of a street, by which alone the applicant had access to a piece of land sold and conveyed to him by the municipality at a tax sale, without providing other convenient access to the land. The land was unpatented, but the applicant had paid all dues to the Crown Land Department. The by-law was objected to, on the ground that it did not provide other convenient access to the land: that a month's notice of the passing of the by-law was not given, the notice having been given, on the 28th of March, for the 28th April: that it provided for arbitration by the Mayor, and by two persons, one appointed by the railway company and by the applicant, a mode different from that provided by the statute; and that the award was to be made within one month from the date of passing the by-law instead of one month from the appointment of third arbitrator.

*Held*, that all the objections were well taken, and that the by-law was invalid.

*Held*, also, that the applicant had sufficient interest in the land in question to entitle him to apply; and, at