

In all the somewhat unusual circumstances of the case, the learned Chief Justice inclined to the view that the plaintiff did acquire such a right without conferring on Stutt such a power, and so would dismiss the appeal. The plaintiff was to have one-third of the crop; and no time was fixed for payment of the rent if the one-third of the crop were merely rent reserved. All the circumstances pointed perhaps more to "working on shares" than to a real demise, though there was much to be said in favour of the view that the one-third of the crop which the landlord was to have was, as to the crop of pease in question, one-third of the gross income from the transaction with the defendants.

BRITTON, J., agreed with MEREDITH, C.J.C.P.

LATCHFORD and MIDDLETON, JJ., agreed in the result, for reasons stated by each in writing.

Appeal dismissed.

SECOND DIVISIONAL COURT.

MARCH 21ST, 1919.

PIERCE v. CITY OF TORONTO.

Highway—Nonrepair—Snow and Ice upon Crossing—Injury to Pedestrian—Dangerous Condition—Notice—Inadequate Attempt to Remedy—Liability of Municipal Corporation—Municipal Act, sec. 460(3)—"Gross Negligence."

Appeal by the defendants from the judgment of the County Court of the County of York, in favour of the plaintiffs (husband and wife) for the recovery of \$500 and costs in an action for damages arising from an injury sustained by the wife by a fall upon the crossing of a street in the city of Toronto, alleged to have been out of repair and in a dangerous condition by reason of snow and ice accumulating and being allowed to remain thereon without proper measures being taken by the defendants to remedy the condition.

The appeal was heard by MEREDITH, C.J.C.P., BRITTON, SUTHERLAND, and MIDDLETON, JJ.

C. M. Colquhoun, for the appellants.

J. H. Bone, for the plaintiff, respondent.

LATCHFORD, J., read a judgment in which he said that, as found by the trial Judge, the crossing at which Mrs. Pierce was injured