

authorising the raising of the grade of the highway; a by-law authorising the raising of \$10,000 to provide funds for the erection of certain culverts, of which this was one, was passed by the council after submission to the electors. The raising of the grade was necessary to make a proper approach to the bridge, and there was no negligence on the part of the defendants in constructing the bridge or making the approach. The work was authorised by the by-law; and the plaintiff's sole remedy for the injurious affection of her land, if any, was under the arbitration clause of the Municipal Act, R.S.O. 1914 ch. 192, sec. 325: *Pratt v. City of Stratford* (1887), 14 O.R. 260; *Taylor v. Gage* (1913), 30 O.L.R. 75.

The plaintiff was entitled to compensation for a few inches of her land taken, which should be fixed at \$100, the sum paid into Court by the defendants.

Judgment for the plaintiff for \$100; in other respects action dismissed without prejudice to the claim of the plaintiff for compensation under sec. 325. No costs.

BRITTON, J.

MAY 25TH, 1916.

WEDEMEYER v. CANADA STEAMSHIP LINES
LIMITED.

Negligence—Seaman Swept from Ship and Drowned—Action under Fatal Accidents Act—Failure to Prove Negligence Causing or Contributing to Death—Wages.

Action under the Fatal Accidents Act, brought by the parents of William Wedemeyer, employed by the defendants as a seaman on board their steamship "C. A. Jaques," who, on a voyage from Sydney, Cape Breton, to Manchester, England, was, on the 19th July, 1915, swept overboard and drowned, to recover damages for his death.

The action was tried without a jury at St. Catharines and Toronto.

A. C. Kingstone, for the plaintiffs.

D. L. McCarthy, K.C., for the defendants.

BRITTON, J., in a written opinion, said that the negligence alleged was in overloading the vessel, in not providing a proper and sufficient life-line upon the deck which might have been caught