

MUNICIPAL DEPARTMENT

LEGAL DECISIONS AFFECTING MUNICIPALITIES.

HOGG vs. TOWNSHIP OF BROOKE.—Judgment (R) on appeal by plaintiff from judgment of Falconbridge, C. J. (1 O. W. R. 568) dismissing action to recover damages for injuries sustained by plaintiff by reason of the alleged negligence of defendants in permitting an accumulation of snow to remain on part of number 9 side road, in the third concession of the Township of Brooke, in front of one Fellow's farm, by reason of which it was alleged the highway became out of repair and unsafe for travel, and owing to the bad and dangerous state of the highway the horses drawing a wagon in which plaintiff was traveling became imbedded in the snow, and were unable to proceed, and plaintiff in assisting the horses to get out of the snow-drift was stepped upon and thrown down and his knee seriously injured. Held, that it was unnecessary to determine whether or not defendants would have been chargeable with actionable negligence for not removing the snow from the highway so as to make the usually traveled part of it fit for travel. Not only did defendants fail to remove the snow from the traveled part of the highway, but having in effect provided and invited the public to use as a substitute for it a way on the side of the road which they knew would become dangerous to those using it for the purpose of driving over with wheeled vehicles, as soon as a thaw set in, permitted it to remain for three days in a condition dangerous to persons so traveling, a thaw having set in, making it dangerous for three days before the accident to plaintiff. In those circumstances it was the duty of defendants to have made the highway reasonably fit for travel, either upon the usually traveled part of it or upon the substituted way, which could have been accomplished at a trifling expence, or failing that, have stopped the use of the road or given warning against the danger to those traveling upon it, and in omitting to do this they made default in keeping the highway in repair within the meaning of sec. 606 of the Municipal Act, and are answerable to plaintiff in damages. *Boswell v. Yarmouth*, 4 A.R. 353; *Savage v. Bangor*, 40 Me. 176; *Stickney v. Maidstone*, 30 Vt. 738; *Page v. Bucksport*, 64 Me. 51; *McKelvin v. London*, O.R. 70; and *Ladue v. Exeter*, 97 Mich. 450, referred to. Appeal allowed with costs, and judgment to be entered for plaintiff for \$600 and costs of action.

NOTES.

According to a report prepared by Ald. Vallieres, Chairman of the Road Committee of the Montreal City Council, eleven miles of new pavements were laid in that city this year, mostly in the central portion.

The mileage of streets cleaned in Toronto during 1902 was 1,597, necessitating

the removal of 33,482 loads of scrapings and sweepings. This included the cleaning of asphalt pavements by the rotary brooms until the patrol men were put in charge of these pavements. The total expenditure, including patrol cleaning, removal of snow and ice, etc., was \$72,057.15.

Newton J. Kerr, City Engineer of Ottawa, has given out the following statement concerning concrete walks in that city: Number of new walks built in 1903, 72; number of new crossings built in 1903, 57; length of walks built in 1903, 6 1-10 miles; cost of walks built in 1903, \$28,250.70; cost of crossings built in 1903, \$4,067.

34; cost per square foot, 15 7-10 cts.; total mileage of concrete walks in city, 89 8-10 miles; increase in cost of labor and material, 6 per cent; cost per square foot, compared with other years: In 1899, 15 9-10 cts.; in 1900, 16 7-10 cts.; in 1901, 16 1-2 cts.; in 1902, 16 3-10 cts.; this year, 15 7-10 cts.

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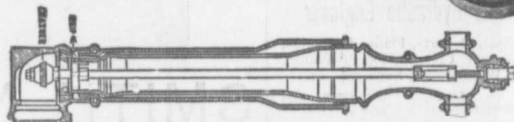
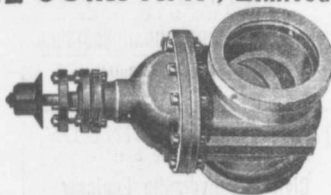
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