

Township's Liability for Damages to Owner of Engine Falling Through a Bridge.

541—J. M.—On or about the 20th July last a person having a threshing outfit and using a traction engine went through a bridge on one of the concessions with the engine. The person in charge states that he got off the engine before going on the bridge and examined it and it appeared to be all right. The bridge had been inspected by an officer of the township about three weeks previous to the accident, and it then appeared to be in good shape. The owner of the engine claims that the cause of the accident was dry rot in two of the needle beams. This dry rot was not apparent on examination of the bridge before the accident. Leaving out the technical objections of want of written notice, do you consider the township liable?

It is a question of fact whether the bridge was defective at the time of the accident, and whether the council knew that it was defective at that time, or was negligent in not having discovered the defect. It is common knowledge that timber will, in the course of time, decay, and it may be that it can be shown that the bridge was built of a kind of timber that would be expected to be in a state of decay at the time of the accident. If the council can show that there was no reason why the bridge should be expected to be defective by reason of decay, having regard to its age and the kind of timber out of which it was made, and that it had no actual knowledge that it was defective, the municipality is not liable.

Building Bridge Across Lake—By-Law Permitting Cows, etc., to Run at Large—Liability for Damages for Cattle Trespassing.

542—W. T. M.—1. In our township the 17th concession runs across a lake which would require a bridge of 160 feet to cross it. The ratepayers in that part of the township presented a petition to the council asking them to construct said bridge, signed by 72 ratepayers. The council refused to take any action. Is there any way to force them to do so and build the bridge?

2. Has a township council power to pass a by-law allowing milch cows and heifers to run at large?

3. Supposing a ratepayer had no line fence between his grain on his property and the highway and some of the cows running at large on highway under aforesaid by-law would get into his grain and destroy it, could he impound them and get damages?

1. No.

2. Yes.

3. Yes. This township is not in one of the unorganized districts of Ontario, and therefore section 94 of chapter 109, R. S. O., 1897, does not apply.

Expropriation of Land and Building Road for Private Individual—Collection of Expenses of Disinfecting Premises.

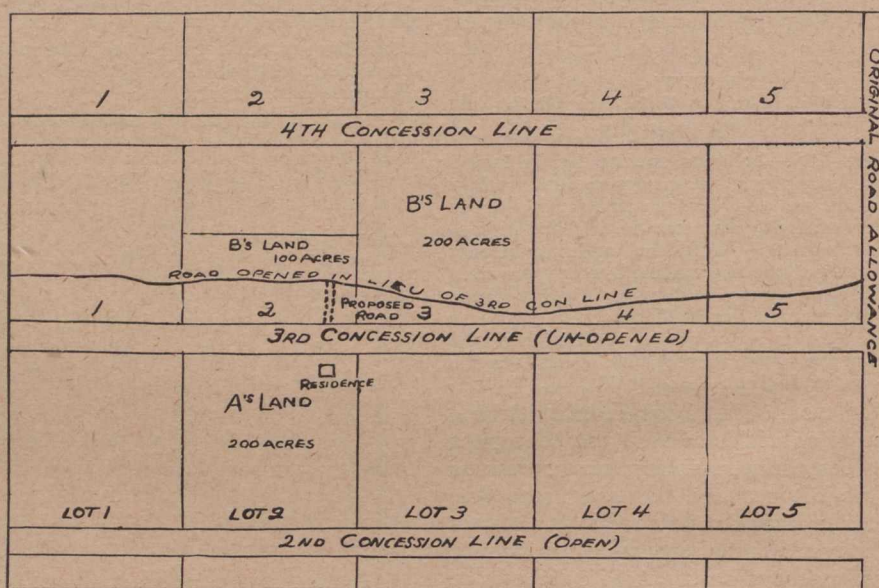
543—A SUBSCRIBER.—A is owner of lot 2, concession 2, township of B. B is owner of east lot 2, concession 3. The allowance for road between the 2nd and 3rd concessions is not opened at said lots, but a road is opened through east lot 2, concession 3, in lieu of the concession line, as you will see by the enclosed diagram. Some years ago A lived

on the east half lot 2, concession 2, and the council opened the 2nd concession into his land. Afterwards he bought the west half of said lot and moved on to it, and applied to the council to open the 3rd concession line or to open a road through part east lot 2, concession 3, to the present travelled road in lieu of the concession line. B gave A the privilege of driving through his land as long as he required a road if he would open and shut a gate. After A applied to the council to have a road opened up they employed a Provincial land surveyor to locate the 3rd concession line and also to survey a road through part east lot 2, concession 3, from the 3rd concession line to the present travelled road, a distance of 8 chains and 75 links. Since the line has been run B has put up a fence across the road where A travelled and forbid any person travelling on same or he will be prosecuted. There is a difference of opinion as to the 3rd concession line being practicable, but should it be considered so it will cost a large amount of money to do so and not answer A as well as where the present survey is made.

the secretary to notify the owner of the property to put them in a sanitary condition inside of eight days or legal steps would be taken to have the same cleaned up and also to notify the member of the Local Board living near to see that the work was properly done. The owner of the property then went and cleaned up part of the filth, but did not do it to the satisfaction of the member in charge, who after the eight days had elapsed engaged a man to complete the work. The member in charge sent in his account to the secretary, who forwarded it to the owner of the property who refused to pay same.

5. Can the Local Board of Health collect the amount of cleaning the premises from the owner of the property, or can they charge him with the medical health officer's fee for examination of same when he refused to clean up when first notified of the nuisance?

6. If the amount can be recovered from the owner of the property, can the clerk enter it on the roll against the property and collect in taxes, or must it be collected through the courts?



1. Can the council force a road through B where A has the 3rd concession opened at the east end of his land?

2. Can the council pass a by-law and make the road and leave the matter to arbitration, or must the matter of compensation be settled before they proceed to make the road?

3. Could B enter action against the council for trespass if the line is proven to be practicable?

4. What would you consider the necessary steps for the council to take in the matter?

RE BOARD OF HEALTH.

A is owner of part W. lot 11, concession 2, township of B, and had the same rented to B who kept a small general store. In February last B died from tubercular disease, and in the spring the widow moved off the premises and a complaint was made to a member of the Local Board of Health living near by that the back yard of the premises was in a very unsanitary condition and unsafe to the health of the community. The member of the Local Board notified the owner of the premises to have the same cleaned up and put in a sanitary condition. The owner came and viewed the same and said they were not in need of cleaning and refused to clean up any. The member of the Board of Health then called on the reeve or chairman of the Local Board and they sent the medical health officer to examine the premises and ascertain whether or not he considered them in a sanitary condition. The medical health officer reported them in a bad state and considered them unsafe, and ordered

1. The council is empowered by section 637 of the Consolidated Municipal Act, 1903, to expropriate the portion of B's land required for this road and to pass a by-law opening and establishing it, after the preliminary steps mentioned in section 632 have been strictly observed, if it is considered that such a course is necessary for the convenience of the general public. The council should not do this, however, for the accommodation of one private individual only.

2. The council may pass the by-law necessary for opening and establishing this road, and expropriate and enter upon the lands required for the purpose of constructing it, and allow the question of compensation to the owner, to be settled afterwards by agreement or arbitration, as the case may be.

3. No.

4. From the facts as stated, we are of opinion that the council had better remain inactive in the matter. The general public do not seem to require this road. A appears to have ingress and egress to and from his premises, by the second concession road, and the