a greenhouse upon his land. In February, 1918, the plaintiff's land was flooded and injury done to his crops, greenhouse, and the flowers therein; and in previous years some damage was said to have been done. He attributed the injury to the construction of the tunnel and the obstruction of the natural flow of the stream; and in this action he claimed $995, the larger part being for the damage done in February, 1918.

The learned Judge, after reviewing the evidence, said that he was unable to come to the conclusion that any injuries sustained by the plaintiff in February, 1918, were the result of the building of the tunnel. He was convinced, on the contrary, that, having regard to the abnormal and apparently unprecedented freshet that occurred at that time, the floor of the plaintiff's greenhouse would have been flooded had no tunnel existed at all.

Reference to Greenock Corporation v. Caledonian R.W. Co., [1917] A.C. 556, upon which the plaintiff relied; and to Judge v. Town of Liverpool (1916-18), 28 D.L.R. 617, 57 Can. S.C.R. 609.

The other claims for damages were not sustained by the evidence.

Action dismissed with costs.

KELLY, J. JULY 18TH, 1919.

JOHNSTON v. TOWNSHIP OF KORAH.

Highway—Nonrepair—Municipal Act, sec. 460 (1)—Injury to Persons—Automobile Going over Side of Bridge—Guard-rail—Sufficiency—Finding that Township Corporation not Negligent—Negligence of Plaintiff, Owner and Driver of Vehicle—Evidence—Onus—Motor Vehicles Act, sec. 23.

Action for damages for the death of the plaintiff's son and injury to the plaintiff himself in an automobile accident upon a highway in the township of Korah. The plaintiff, suing on behalf of himself and his wife, alleged that a bridge upon the highway, over the side of which the automobile went, was not in a proper condition of repair, and that the condition of the bridge was the cause of the accident.

The action was tried without a jury at Sault Ste. Marie.

U. McFadden and E. V. McMillan, for the plaintiff.

Grayson Smith, T. L. Monahan, and J. McEwen, for the defendants.