

REPORTS AND NOTES OF CASES.

Province of Ontario.

HIGH COURT OF JUSTICE.

Divisional Court, Chy.]

[Oct. 6.

YOUNG v. TOWNSHIP OF BRUCE.

Highway—Non-repair—Injury to traveller—Notice of accident—Absence of details—Sufficiency, in view of knowledge of Council.

Appeal by the plaintiff from the judgment of the County Court of the county of Bruce, dismissing an action brought to recover damages for personal injuries sustained by the non-repair of a township highway, upon which plaintiff was being carried in a public vehicle on Dec. 8, 1908. The vehicle, with the plaintiff in it, went over an embankment, which should have been guarded by rails, but was not. The action was dismissed on the ground that the notice of the accident given by the plaintiff to the defendants was insufficient.

The defence pleaded that no notice of the accident was given as required by Municipal Act, 1903, s. 606, sub-s. 3. It appeared however, that the following letter was written by the solicitors to the town clerk, which it was claimed was a sufficient notice:—"We have been consulted by the plaintiff regarding the injury received by him on the 8th December, while being driven in the 'bus between Underwood and Port Elgin in consequence of the road being out of repair. No protection was provided, and the 'bus was thrown down some considerable distance. This notice is given pursuant to the Municipal Act." On Jan. 20th, the town clerk replied: "Yours of the 31st re alleged accident to Young received and considered by the council. I have been instructed to notify you that Bruce township council will not pay any damages, as they do not consider they are liable for any such damages."

Held, 1. That although the letter to the town clerk was defective in details it substantially set forth the fact of the accident and the cause of it; and it was sufficient if it gave the information which the law demands should be given.