

Accordingly, the defendants are bound to keep that portion of Mill street within the township limits, and the bridge, in reasonable repair. For the purposes of this case, it may be assumed to be the law that, except for sec. 606, a municipality is not liable in damages because of the nonrepair of a public road; but the learned trial Judge held that, because the plaintiffs had not complied with the requirements of sub-sec. 3 of sec. 606, they were not entitled to maintain this action.

With all respect, I do not find myself able to accept his interpretation of the section. Sub-section 1 of sec. 606 comes down to us from the Consolidated Statutes of Upper Canada. At that time the various sub-sections of sec. 606 formed no part of the statute-law; and, as the section thus originally stood, a municipality was "civilly responsible for all damages sustained by any person by reason of such default" (failure to keep in repair), "but the action must be brought within three months after the damages have been sustained."

The scope of the section was not limited to damages to the person, or to damages arising from some accident, but included any cause of action resulting from the municipality's default. The same language is found in sub-sec. 1 of sec. 606; but it is contended that the addition of sub-sec. 3 limits sub-sec. 1 to an "accident case," and this contention is based on the words of sub-sec. 3, "No action shall be brought to enforce a claim for damages under this section, unless notice in writing of the accident," etc., has been given.

In passing sub-sec. 3, the Legislature was not dealing with sub-sec. 1, but was considering accident cases only, and was endeavouring to provide for a municipality being given prompt notice of the accident; evidently with a view to its having the opportunity of investigating the attendant circumstances before they had become dimmed by the lapse of time. In order to secure the giving of such notice, the Legislature enacted that failure to give it might, in that class of case, bar the claim for damages. But sub-sec. 1 includes damages to property not the result of accident: *Cummings v. Town of Dundas*, 9 O.W.R. 107, 624; and the Legislature has not pretended to amend that section. It is not to be inferred that the Legislature intended in a very important respect to alter a state of the law by depriving persons of a cause of action growing out of (say, by way of illustration) damage to property or business, by the indirect method of apparently dealing with a subject of causes of action arising out of accident merely; and, where the cause of action,