MUNICIPAL DEPARTMENT

MUNICIPALITIES NOT LIABLE FOR DEFECTIVE WATER SUPPLY.

An impression generally prevails in regard to the liability of a municipality for losses incurred owing to the defective condition of the water works, which is quite erroneous. A number of suits have been brought against municipal corporations, for damages caused by their allowing their water works to become inefficient, and thereby preventing the rapid extinguishment of fires. At a first glance this seems a very reasonable claim. The Insurance Herald has published a synopsis of the decisions of the Courts on this matter, which are all adverse to the idea of municipal responsibility in this connection. One of the most intelligent and well expressed judgments is that of Judge Gray in the New York Court of Appeals. He considers the proposition that a liability rests upon a municipal corporation for injury arising from its defective public works, as not only startling, but a misapprehension of the nature of the responsibility which devolves upon a corporation in connection with the maintenance of a water works system. It would be well in some cases this were so, as public bodies might be more careful. But reflection will show that a multitude of actions would be encouraged by fire insurance companies and others, and that cases have arisen, and may still arise, when an expensive conflagration might bankrupt the municipality, if it could be rendered liable for the damages or losses sustained. It is manifest, however, that there must be some form of responsibility resting on corporations for neglect, as otherwise no traveller on a defective roadway or sidewalk would have a claim for damages for any injury directly caused by such public works being neglected. The distinction between such claims and those for damages arising from defective water supply is not easy to state briefly. The difference seems to rest upon there being two classes of functions to be performed by a municipal body, one of which classes is obligatory and the other optional, or voluntary. The law holds a corporation to strict accountability for neglecting its duty in regard to any public work, but it does not regard a corporation as liable for damages arising from its neglect of some enterprise which has been taken up voluntarily, and not of necessity as a legal obligation. A municipality is not bound to have a water works system; it cannot be held liable for the losses by fire caused by the absence of such a system; it follows therefore that it is not responsible for the losses caused by that system being out of order. In building water works no contract was entered into by the corporation to keep up a constant supply of water for the extinguishment of fires. A suit for damages, therefore, brought by a person whose property was burnt owing to the water works of the town being in bad condition, failed because he entirely failed to prove any obligation on the part of the corporation to have water works at all, much less to have them always kept in an efficient state for extinguishing fires.

So far we have looked at this strictly from a legal standpoint. A corporation, however, which takes refuge behind the letter of the law when charged with such a grave neglect as letting the water works become inefficient, is not thereby freed from a very grave moral responsibility. The activities out of which comes the wealth of a city are sustained by vast amounts of capital, which is invested in the confidence that the city will protect such capital from the dangers of fire by an efficient fire brigade and an adequate water supply. The obligation to afford such protection is not a legal one, says the courts, but it is far more binding to honorable men, for their honor is morally pledged to the maintenance of the fire protection necessary for giving confidence to capital. Instead, then, of any citizens worrying over suits against corporations of the class above indicated, they should direct their energies to securing representatives who are alive to their duties and responsibilities.—Insurance Chronicle.

LEGAL DECISIONS AFFECTING MUNICIPALITIES.

KING v. TOWN OF PORT ARTHUR.—Judgment by Chief Justice Boyd in Single Court at Toronto on motion for injunction to restrain defendants from submitting by-law respecting water works, and from entering into the contract mentioned therein. The learned Chancellor favours the view taken in Vickers v. Shuniah, 22 Gr. 41, that it is time enough for the court to interfere when a by-law has been carried illegally, rather than by injunction. He does not follow the reasoning in Helm v. Port Hope, 22 Gr. 310, as to the function of the court being to protect the Legislature against irregular or illegal use of municipal machinery. Having regard to limited time to show cause and ample and ordinary remedies existing in case by-law is carried, he makes no order. This he prefaces with declaration that inasmuch as from non-observance of directions as to time in sec. 293 of Municipal Act, 1892, the proposed by-law, if carried would appear to be migratory, the court does not think fit to make order for injunction.

KERR v. COUNTY OF LAMBTON.—Judgment by Chief Justice Meredith at Toronto, on motion by J. Kerr, a ratepayer, to quash a by-law of the Municipal Council of the County of Lambton guaranteeing water works debentures of the Town of Petrolea, on the ground that the by-law required the assent of the electors of the county, and was passed without it, and on the ground that it was passed before the final passing of the by-law of the town of Petrolea respecting the debentures. Held, that the by-law in question did not require the assent of the electors. (2) That the Petrolea by-law, having been provisionally adopted and having received the assent of the electors in accordance with the provisions of sec. 293 at the time the county by-law was passed and everything having been done except the final passing by the council, and there being a provision in the county by-law that the form the guarantee was to take was an endorsement on the debentures, which could issue only after the final passing of the by-law, there was nothing in the language of the statute, nor upon principle, to prevent the power of the County Council being validly exercised. (3) That the form in which the corporation is to evidence its contract is unobjectionable, and the words which follow, as to the liability of the corporation, read in connection with the form, do not enlarge the liability beyond that of guarantors, and is no more than a promise to be answerable or to be charged with the obligation with which the Petrolea corporation is primarily chargeable.

ELECTRICITY AND SEWAGE.

The decomposition of sea water by electrolysis, and the application of the chlorine thus obtained to the disinfection of sewage has, wherever tried, demonstrated not only the complete practicability of the method, but its economy, commercially considered.

Prof. John W. Langley, of the Case School of Applied Science, Cleveland, Ohio, who has given considerable attention to this problem by investigation and experiment, states some interesting facts in his address. To those interested in the problem of the cheap and effective purification of sewage, the data deduced from Prof. Langley's experiments will be of considerable value. Although the operating plant used by Prof. Langley was of a capacity totally inadequate to the needs of a large city, the results attained show that from the expenditure of one electrical horse power per hour, 6.37 pounds of chlorine can be produced.

"The quantity," Professor Langley says, "would purify over fourteen thousand gallons of sewage per day of ten hours. A hundred horse-power would therefore disinfect nearly a million and a half gallons in the same time. The cost of the process will be but little more than the cost of electricity plus that of pumping the sea water and the small additional amount for wages. These can be approximately estimated at twenty-five cents for 1,400 gallons when carried out on a scale of 500 horse-power. Taking the wholesale price of bleaching powder, its cost to do the same amount of disinfection would be at least twenty times as great. For inland cities the cost of salt would have to be added, but even then the expense would still be much below that of bleaching powder."

The economy and simplicity of this method would, it seems, indicate its general application in the near future.