Challoner vs. Township of Lobo.

Judgment in action tried at London. Action to set aside a by-law authorizing the doing certain drainage work, and for damage for cutting timber on plaintiff's land over the proposed part of the drain. The petition for the work was presented to the council of the township on April 10, 1899, and the engine r's report was handed to the clerk on July 31, 1899. On August 14, 1899, the report on the work was adopted by the council. The by-law was provisionally adopted on September 4, 1899, and finally passed on October 9, 1899. The assessment roll of the municipality for 1899 was finally revised before August 1, 1899. Held, that what is contemplated by the Act, R. S. O., chapter 226, section 3, is that at the time action is taken by the council by passing the by-law the council must have before it a petition for the work signed by the necessary majority according to the then last revised assessment roll, and that the governing roll in this is the roll of 1899, and not that of 1898 upon which the council acted; that the words "exclusive of farmer's sons not actual owners," used in the section, mean those who are not actual owners as shown by the last revised assessment roll. The two Crovens, the sons, and the two McKellars, are for the reasons given in the judgment not entitled to petition, and therefore the petition is insufficiently signed and the by law must be declared invalid. Held, also, following Hill vs. Middaugh, 16 A. R., 356, and McCullock vs. Caledonia, 25 A. R., 417, that the action in respect to damages is not maintainable. Judgment accordingly, and enjoining the defendant corporation from continuing the work through plaintiff's lands. Costs to plaintiff as against both defendants. As between defendants the costs of defendant Oliver should be paid by his co-defendants.

Town of Peterboro vs. C. P. R. Co.

Judgment in action tried without a jury at Peterboro In 1888 the plaintiffs were the owners in fee of Island No. 1, in the Otonabee River, opposite the town. On the 4th of June, 1888, the town council passed a resolution recommending that authority be given to defendants to construct a siding connecting the mills and factories in the Dickson raceway with the main line upon certain conditions, etc. On 24th October, 1888, a further resolution was passed by the town council permitting the defendants "to take gravel and soil from the island in the river Otonabee at Peterboro for a roadbed without charge for their railway, at or near that point . . . but that nothing in this resolution shall be understood or construed as giving the said railway company any right or interest in the said island beyond the right of way." On the 1st of September, 1888, the defendants obtained the authority of the Privy Council to construct the siding or branch line referred to in the above resolutions, and having procured and paid for the right of way, proceeded to construct it in 1888-9, and expended upwards of $13,000 in so doing. No claim was made by the plaintiffs upon them of any kind until shortly before this action, which was begun on the 17th of August, 1898. The plaintiffs asked that their title to the lands covered by the right of way might be established, and that it might be declared that defendants executing an acknowledgement of plaintiff's title the plaintiffs might be declared entitled to possession. The defendants set up that their occupation was by a license from plaintiffs under which they were to expend moneys in doing certain acts for plaintiffs' benefit, which they did at great expense, and that plaintiffs were estopped from contesting the defendants' right to retain possession of their right of way, and defendants counter-claimed for a conveyance. Held, that plaintiffs should be left to the remedies provided by the railway act; their claim was entirely without merit; the intention of the resolution was to give defendants a free right of way over the island to some mills and factories which (it was to be assumed) were a benefit to the town. The mayor appeared before the Privy Council in support of the application of defendants, and the latter took all proper steps, and spent several thousand dollars in building the spur and compensating persons affected by it. If plaintiff's contention is right, their proper and only remedy is compensation under the railway act. But if they are estopped by their acquiescence, and by the expenditure of money at their request, they cannot succeed in the action. The defendants have not shown themselves entitled to a conveyance. Both action and counter-claim dismissed with costs.

Renshaw vs. Township of West Oxford.

Judgment in action tried in Woodstock brought to recover damages for injuries sustained by plaintiff while being driven in a buggy along a highway in West Oxford. Held, on the evidence that the highway being without a guard along the top of the embankment at the place where the accident happened, was out of repair. Judgment for plaintiff for $400, with full costs.

Five Per Cent.

An act to amend the acts respecting interest, passed at the last session of the Dominion Parliament, marks an epoch in the financial world, in that it makes 5 per cent. per annum the legal rate of interest (as it is popularly called), instead of 6 per cent. If the accumulation of capital increases as it has done during the last quarter of a century, the rate will soon be down to four per cent.—*Canada Law Journal.*

Good Roads in Michigan.

At the Masonic Temple, recently, a session of the good roads convention was held. Hon. Martin Dodge presided. It was resolved that "the members of the Michigan good roads convention in session in the city of Saginaw, Mich., this 22nd day of August, 1900, do hereby organize and constitute ourselves into a permanent association for the promotion of good roads in the state of Michigan, and to secure such national and state legislation and co-operation as will hasten the time when the people in the country over may be emancipated from the thraldom of impassible roads."

It was decided to call the organization the Michigan Good Roads and Improvement Association, and the co operation of all was invited "to the end that the greatest advancement in road-building and repair may be secured in all the several road districts in Michigan, and that good roads, the greatest blessing on earth, shall be enjoyed by all the people all the time."

A committtee on permanent organization was appointed as follows: S. G. Higgins, Saginaw, president; E. O. Shepard, Charlotte; John McAvoy, M. W. Tanner and C. H. Peters, Saginaw. The object of the committee is to formulate a plan for temporary formation, arouse interest, appoint temporary officers, and call a general state meeting later.

In the afternoon the delegates were taken to the south end of the city, where an exhibition of the process of modern roadmaking was given.

In many townships by-laws are passed regulating the height of fences, and stating whether cattle may or may not run at large. Municipal councils are permitted by statute to pass such by-laws, but some of our best legal authorities maintain that an owner of land bordering on a highway is not bound to erect a fence along the highway to protect his crops against cattle running at large upon the highway, notwithstanding such by-law. This question, as far as we are aware, has not been before our provincial courts; and it would appear that owners of animals running at large might be held responsible in damages, as it is questionable whether such permission by by-law would be valid as against property owners. Our opinion is that persons allowing their cattle to run on the roads are responsible in case of damage, by-law or no by-law. It might be well for municipal councils to peruse the Line Fences' Act and Municipal Act as far as it relates to fences. The general law is that those keeping animals must attend to them, as it is not the part of any man to fence out his neighbor's cattle.—Stouffville *Tribune.*

The township of East Flamboro recently appealed from its equalized assessment as fixed by the County Council to the county judge of Wentworth. The township succeeded in having its assessment reduced from $50 to $46 an acre.