

RIGHTS OF THE BELL TELEPHONE CO. AS TO USE OF STREETS OF MUNICIPALITIES.

Under the above caption, on page 179 of the issue of THE MUNICIPAL WORLD for 1903, we stated the law on this subject, as settled up to that time by the Ontario Court of Appeal, allowing an appeal by the Telephone Company from the judgment of Mr. Justice Street in a case stated between the Company and the City of Toronto. Mr. Justice Street had decided that the Company had no power or authority to erect their poles or string their wires on and along the highways of a municipality unless the consent of the council had first been obtained to its so doing. The Court of Appeal reversed this decision, and the city corporation appealed from the judgment of the Court of Appeal to the judicial committee of the Privy Council in England. The last named tribunal recently delivered its judgment, dismissing the city's appeal. This result puts an end to the council's claim to municipal control of the Telephone Company's operations on the streets. All that can now be done is to apply to the Dominion Parliament for legislation, which will restore to municipalities the right to control their own streets—taken from them by previous legislation and the decision in this case.

In a recent issue the *Globe* makes the following comments on the result of the contest :

"The primary issue in the suit was whether or not the company was bound by its Ontario charter. The Telephone Company was first incorporated under a charter of the Dominion Parliament. Later on, the case of *Regina v. Mohr*, in Quebec, threw doubt on the company's right to operate in the provinces without a provincial charter. The company then applied for and obtained from the Ontario Legislature a charter in which it was stated "the company shall not erect any pole higher than forty feet above the surface of the street, nor affix any wire less than twenty-two feet above the surface of the street; nor carry such poles or wires along any street without the consent of the municipal council having jurisdiction over the streets of said city, town, or incorporated village."

The Dominion charter gave no such protection to the municipalities, and the object of the city was to secure from the courts a declaration that the company, having applied for and obtained the provincial charter, were bound by it.

The mayor, speaking of the judgment, said the company had now absolute right to tear up the city's streets as it chose. Council would now have to apply to the Dominion Parliament for legislation to protect the municipality. Parliament, he said, had always held that municipal rights were protected under the Company's charter, and he thought they would be willing to grant the legislation to be asked for. The company would, he had no doubt, make a hard fight against it, and he saw a big struggle at Ottawa ahead for the municipalities of the Dominion."

Mr. James R. Thompson, cashier of the freight department of the Grand Trunk Railway, has been appointed treasurer of the City of Windsor in succession to Lt.-Col. J. C. Guillot.

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Mr. Thomas Beasley, city clerk of Hamilton, will soon complete his 50th anniversary as secretary of the board of education, and he will be presented with a suitable memorial of the event.

MUNICIPAL OWNERSHIP AND OPERATION.

"In Illinois, street railways operated by a city may carry passengers, baggage, and mail, and can be used for such other purposes as the council determines. Their accounts must be kept distinct from other municipal accounts, and such charges must be made as will permit of the roads being self supporting, and will, in time, pay the debt incurred in their behalf."

This statement of the conditions of municipal ownership in Illinois directs attention to matters that are not always considered in dealing with this important question. It applies equally well to water or lighting plants. Sometimes a municipality does not make a public utility pay, and the cause is said to be owing to the specially low rates enjoyed by the users. In all cases deficits are a charge on the general funds, paid by users and non-users, but it cannot be argued that non-users should be taxed therefor. The users should be charged annually with the expenses of maintenance and operation and a fair contribution towards a sinking fund for first cost and renewals. Unless a proposition for municipal ownership includes this, it should not be considered.

A municipality is usually the largest customer of its own lighting plant or water works, but in no instance should they be charged more than they would have to pay a private company.

The failure to keep proper accounts is the cause of some so-called successful municipal activities, which, by example, encourage others to undertake similar works, and include in debenture issues sums which should have been paid by the users.

Some governmental supervision of municipalities is necessary to insure proper financial management in all cases of public ownership and operation.

ASSESSORS.

The new Assessment Act comes into force on 1st January; councils should take great care to select the best available man for the position of assessor. He should be a man who will make a careful study of the new Act and be competent to carry out its provisions. In our opinion, the assessor is the most important official councils have to appoint, and the January session will be an opportune time to insure efficiency in the future work of this department.

OBITUARY.

We are indebted to a son of the deceased for the following,

DIED—Of paralysis, at Rainham, on Sunday, November 13th, Richard Atlantic Havill, aged seventy-one years.

The subject of this sketch was born at Black Rock, N.Y., on September 8, 1833. He moved with his parents to Allenburg when but a boy, and received his education there. He learned the trade of carriage making at St. Catharines, and for twenty-five years carried on a successful business at Rainham. Disposing of the business, he bought his father's farm twenty-five years ago, and resided there until the date of his death.

Deceased was highly respected, and held several positions of public trust, having been township clerk for forty-two years. Twenty years ago he was appointed clerk of Rainham Division Court, which position he held until the court was transferred to Cayuga the present year. He was a magistrate, secretary of the Agricultural Society for a number of years, superintendent of Union S. S. at Sweet's Corners, and a member of the Methodist church.

The members of the council of the Township of Rainham, with whom he had been associated so long, showed their respect and esteem by acting as pall-bearers.