

Legal Department

J. M. GLENN, K. C., LL. B.

Of Osgoode Hall, Barrister-at-Law

Re CAMERON AND UNITED TOWNSHIPS OF HAGARTY, SHERWOOD, JONES, RICHARDS AND BURNS

By-Law Closing Road Allowance—Repeal of, After Motion to Quash—Costs

Judgment on motion for costs of application to quash by-law of councils of united townships closing a road allowance. The by-law was repealed on June 17th, 1907, after the motion to quash had been launched, and nothing but the question of costs remained. Counsel for the municipality argued that the application was premature, as the by-law had not been confirmed by a by-law of the county council under section 660 (2) of the Municipal Act, 1903. Held, that the court should not interfere so long as there is another tribunal to whom appeal may be made, and therefore the applicant should have no costs of the motion, but, as the municipality should not have passed the by-law, there should be no costs against the applicant. No order on the application.

SMITH v. TOWNSHIP OF ELDON

Injury to Private Lands—Deposit of Sand and Water—Damages—Injunction

Judgment in action tried without a jury at Lindsay. Action for damages and an injunction in respect to injury to plaintiff's land, lot 1 in the 7th concession of the township of Thorah, by deposit of water and sand thereon. Held, that plaintiff's remedy is by action, and not by arbitration. Judgment for plaintiff for an injunction restraining defendants from a continuance of the nuisance to his land and from causing water and sand to be deposited upon his land. If there be any dispute as to the exact form of the injunction, the minutes may be spoken to. Reference to the Master at Lindsay to determine the damages to which plaintiff is entitled. Defendants to pay plaintiff's costs and including judgment. Further directions and subsequent costs reserved. To enable defendants to make suitable provision for the disposition of the surplus water, operation of injunction stayed for four months.

Re RUDOLPHE AND VILLAGE OF TARA

By-Law—Signature of Reeve—Delay in Bringing Proceedings.

This was a motion to quash by-law No. 205 of the village of Tara, passed on January 8th, 1906, on the grounds that the by-law had not been signed by the reeve, as provided by law, and that several persons voted who had no right to vote. Held, following re Robinson and Beamsville, that owing to the great delay here, which was not satisfactorily explained, and owing also to the fact that the persons whose votes were challenged had all made affidavits for the applicant that they had not the legal right to vote, thereby shifting the inference that might otherwise have been made, the motion failed.

COUNTY OF DUFFERIN v. COUNTY OF WELLINGTON

Bridge on Townline—Maintenance of—Definition of

Judgment in action tried without a jury at Orangeville. Action under sec. 617 of The Municipal Act, 1903, for a declaration that plaintiffs and defendants are jointly liable for the building and maintenance of what is alleged to be a bridge over a stream crossing the boundary line

between two townships, one in Dufferin and the other in Wellington. It was contended by defendants that the structure is not a bridge but only a culvert. It is a circular concrete pipe with an inside diameter of three feet; the concrete is six inches thick, and there is about a foot of gravel on the top of the pipe. It replaced an old bridge about eight or ten feet in span, which had fallen into disrepair. Held, referring to the definition of "culvert" in Murray's New Oxford Dictionary, and to North Dorchester v. Middlesex, 16 O. R., 658, that this particular structure is a culvert and not a bridge. Action dismissed with costs. Thirty days' stay.

(Municipal Officers of Ontario)

Re RICKEY AND TOWNSHIP OF MARLBORO'

Local Option By-Law—Motion to Quash—Irregular Advertising of—Illegal Votes.

Judgment on motion by one Rickey to quash a local option by-law approved by the electors of the Township of Marlborough on 7th January last, upon a vote of 213 for and 132 against, and passed by the council. The most serious objections were that the by-law was not advertised as required by section 338 of 3 Edw. VII., chapter 19, and the admission of illegal votes, and there were other irregularities. But held that none of the objections were sufficient under the decided cases to affect the result. Motion dismissed but without costs, as the attack was invited by the course taken by the council and clerk.



T. A. THOMPSON

CLERK OF THE TOWNSHIP OF RAMSAY.

Mr. THOMPSON is a native of the township, where he was born in 1868. He was a member of the township council for six years, for the last two of which he was reeve. He was afterwards a member of the Lanark county council for 1905-06 and had intended to retire from municipal life altogether. The position of clerk becoming vacant this year, the council induced him to accept the office and give them the benefit of his wide experience.

REX v. HUMPHRIES

Transient Traders' By-Law—Sale by Sample

The defendant moved absolute a rule nisi to quash the conviction of defendant for an alleged offence against a transient traders' by-law of the town of Milton. Defendant is a tea merchant in the city of Guelph, and took an order in Milton for a sale by sample, the goods to be delivered later. Defendant contended that the conviction and by-law are bad, because they go beyond the statute as to the penalty imposed, and also that the defendant does not come within the by-law. Rule absolute quashing conviction with costs.

Re TOWN OF BERLIN AND BERLIN & WATERLOO STREET R. W. CO.

Purchase of Street Railway—Award of Arbitrators.

Judgment on motion by the company to set aside an award of three arbitrators, dated 29th December, 1906, awarding to the railway company \$75,200 for their rail-