

MUNICIPAL DEPARTMENT

LEGAL DECISIONS AFFECTING MUNICIPALITIES.

PREFONTAINE VS. CORPORATION OF THE PARISH OF BELCIEL.—The plaintiff, who is a property owner in the parish of Belciel, and is interested in a proces verbal of the 3rd September, 1894, made by A. Bernard, special superintendent, named by the Municipal Council of the parish, for the opening of a road leading from the front road of the fourth concession to the front road of the fifth concession, in the parish. He asked that the proces verbal, and the amendments made thereto by the municipal council of the parish, in homologating the proces verbal, on the 2nd July last, be annulled, among other reasons, because the proces verbal, as amended and homologated, did not indicate the assessable property of the proprietors or occupants who were obliged to perform the work, or to contribute to the completion thereof, as required by Article 799 of the Municipal Code. The Court held that the petition was well founded in fact and in law, and the action was maintained, and the proces verbal and amendments were declared null, and the defendant condemned to pay the costs.

CANADIAN PACIFIC RAILWAY COMPANY AND CITY OF TORONTO.—A city municipality, a railway company and others, entered into an agreement for the execution of certain works, by the former, authorized by order in council under the Railway Act, the cost being apportioned between them, of which the railway company paid their share. The agreement provided that no party to it should be entitled to compensation for injury or damages to their lands, by reason of the construction or maintenance of the works, a necessary part of which was the construction of a road towards and under the railway tracks, a portion of the roadway fronting on the lands of the railway company, and the city sought to charge the company with the cost of the construction of the roadway as a local improvement, under the Consolidated Municipal Act, 1892, and passed a by-law for that purpose. Held, that the work having been done under the agreement between the parties and the order in council, the local improvement clauses were not applicable and the by-law was void.

TOWNSHIP OF MORRIS V. COUNTY OF HURON.—Judgment on appeal by defendants from judgment of Meredith, C. J., (26 O. R., 689), in favour of plaintiffs, holding them entitled to recover from defendants forty per cent. of the amount expended by them in the maintenance of certain of their bridges, up to the day on which the Act, 57 Vic., ch. 50, sec. 14,

took effect, founded on an award, and holding that the saving provisions of sec. 14 of the Municipal Amendment Act, 57 Vic., ch. 50, do not operate so as by implication necessarily to exclude the application of the Interpretation Act, R. S. O., ch. 1, section 8, sub-sec. 42, and that the plaintiffs were, notwithstanding the repeal of sec. 533a of the Consolidated Municipal Act, 1892, by sec. 14 of 57 Vic., ch. 50, entitled to recover the amount expended up to the date of the passing of the latter Act; cross-appeal by plaintiffs from the same judgment seeking to recover the full amount awarded. Held, that the right of action which plaintiffs had against defendants by virtue of sub-sec. 3 of sec. 533a at the time of the coming into force of sec. 14 was not thereby affected. It was contended that this was the case of an "arbitration pending" within the meaning of sec. 14 by reason of an appeal from the award which was pending at the time the section came into force. Held, that when the award was made, the arbitration ceased to be pending, the arbitrators being *functi officio*. It was also contended, that as sec. 14 provided that such repeal should not affect any contract or agreement theretofore made, it was intended to affect an award theretofore made. Held, that upon the fair reading of sec. 14 with sec. 8, sub-secs. 43 and 48 of the Interpretation Act, the right of action of plaintiffs was not affected on the award done away with, for plaintiffs' right of action was really grounded upon sub-sec. 3 of sec. 533a, although the award was a necessary incident to the existence of such right of action. Judgment for plaintiffs against defendants for forty per cent. of the cost of the construction and maintenance of the bridges mentioned in the award, paid or agreed to be paid by plaintiffs prior to the 5th May, 1894, and commencing with and including the time from the commencement of the year 1893 to that date, with a reference to ascertain the amount.

MICRO-ORGANISMS OF SEWAGE.

The main drainage committee of the London county council recently brought up the following report in reference to this subject: "In accordance with the authority given by the council on January 23rd, 1894, the services of Mr. J. Parry Laws and Dr. Andrews were retained for the purpose of making investigations into the bacteriology of sewage, and their report of the result has now been laid before us. These investigations, the council may remember, were undertaken in order to obtain corroborative evidence as to the conclusions arrived at in previous reports by Mr. Laws on the micro-organisms of sewer air. In those reports it was shown that the bacteria of sewer air were related to and derived from those of fresh air, and not from those of the sewage, and that there was no evidence that sewage was able directly to give up its organisms to sewer air. For greater convenience the present report is divided into two parts, the one

dealing with micro-organisms of sewage and their relation to those of sewer air, and the other containing observations on the bacillus of typhoid fever and its relation to sewage. The latter investigations confirm in a most striking manner the conclusions arrived at from the previous experiments on sewer air. If the organisms existing in sewer air were derived from those existing in sewage the bacteria of sewage air should bear a close resemblance to the bacteria of sewage. On contrasting the prevailing organisms of sewage and those of sewer air, they are found to bear no resemblance whatever to one another, indeed so far as the authors are aware not a single colony of any of the organisms found to predominate the sewage has so far been isolated from sewage air. Attention was also specially directed to the possible occurrence of the typhoid fever bacillus, and the *diphtheria bacillus* in ordinary London sewage. Therefore every colony which seemed likely to belong to either of these species was the subject of careful investigation. No evidence whatever of their occurrence in ordinary sewage was found. It is pointed out that the failures to find these organisms in ordinary sewage no doubt arises from the fact that the infected material constitutes such a minute proportion of the total bulk of sewage discharged by the sewers. The mathematical chances, therefore, of detecting these organisms are exceedingly minute unless they are capable of *vigorous growth and multiplication*. Realizing this fact, search was made for the typhoid bacillus in sewers where it might be expected to exist in much larger proportions. On examining sewage taken from the sewer draining the fever block at Eastern hospital, after disinfecting had been discontinued for a short period, the existing of the typhoid bacillus was satisfactorily shown, an important fact which has not hitherto been demonstrated. A series of experiments was also made to determine the fate of the typhoid bacillus in sewage, in order to verify or disprove the statement made by many writers that disease germs such as the typhoid bacillus find in sewage a suitable soil for their growth and multiplication. On careful investigation it has been found that the bacillus of typhoid fever is not only incapable of any growth and multiplication in sewage, but that after the first twenty-four hours it slowly and surely dies out, its ultimate death under natural conditions being a matter of a few days, or at most one or two weeks. If the organisms which exist in overwhelming numbers in sewage do not exist in sewage air, how indefinitely remote is the possibility of the existence of the typhoid fever bacillus in the air of the sewers. Sewage is without doubt a common medium for the dissemination of typhoid fever; sewer polluted soil may give up germs to the sub-soil air; but from the result of these investigations it appears in the highest degree unlikely that the air of the sewers should play any part in the conveyance of typhoid fever."