rose. The council forthwith adopted the report, and instructed the Board of Works to at once proceed with the work, and instructed the clerk to further report as to signatures, etc. About a week later one of the petitioners in writing withdrew his name from the petition, and plaintiffs alleged that at the time of the withdrawal of said petitioner the clerk had nor determined if the petition was sufficiently signed, nor made the other inquiries directed under the by-law. Plaintiffs further pointed out that one of the other three petitioners for the work was the Mayor of Mitchell, and sat at the council board when the petition was acted on, and the by-law passed. Plaintiffs contended that the clerk made no personal examination of the properties before making his report, but simply did all the work in the office by comparing the petition with the last assessment roll, simply taking the statement contained in the petition as to the properties to be benefited as the basis of his report, considering his duty to be to simply see by comparison with the roll as to the proper number of petitioners, and that the proportion of property was correctly represented in the petition. Defendants alleged that the petitioner who had earlier requested to have his name removed from the petition had, in writing, twice revoked his withdrawal, and that in effect said petitioner's name was never withdrawn from the petition. By the eighth paragraph of statement of defence, defendants further contend that plaintiffs having with a full knowledge of all the facts allowed defendants to construct the sidewalk and incur all expenses, without any attempt to prevent them from so doing, and after the work was completed, relying for a remedy against the assessment, having appealed therefrom to a Court of Revision, basing its appeal upon the same grounds as urged in this action, and having appealed from the decision of such court (which confirmed the assessment) to the County Judge, who reduced it, the plaintiffs should not now be heard to object to such assessment, or to the proceedings upon which the same was based. Held, that the matters set up in the eighth paragraph of the statement of defence appear to furnish an answer to this action, but that there were irregularities in the proceedings, and it is reasonable to dismiss the action without costs.

RE METROPOLITAN LIFE ASSURANCE COMPANY ASSESSMENT

Municipal Debentures—Interest on Them Not Subject to Taxation—Interest Part of the Debenture.

Judge Winchester recently handed out judgment in the appeal of the Metropolitan Life Assurance Company against the finding of the Court of Revision for the City of Toronto. The question at issue was whether or not the interest on municipal debentures was subject to taxation as income. His Honor held that it was not, and in view of the many millions of municipal debentures representing the municipal debt of Ontario, the decision is important. The finding applies also to the interest on Government bonds.

The appellants claimed exemption for the interest on the debentures, the amount of interest being $3,045, under sub-section 18 of section 7 of The Assessment Act, which among other exemptions mentions "debentuers of the Dominion of Canada or of this province or of any municipal corporation thereof and such debentures."

The city claimed that sub-section 10 of section 2 of the Act authorized the assessment of the interest on the debentures: "'Personal estate" and 'personal property shall include all goods, chattels, interest on mortgages, dividends from bank stock, dividends on shares or stocks of other incorporated companies, money, notes, accounts, debts at their actual value, income and all other property except land and real estate and real property as above defined and except property herein expressly exempted." It was claimed that the interest in question was assessable under the term "Income."

Judge Winchester summed up the question as follows: "In my opinion the whole question of whether the interest on these debentures is assessable as income or not depends upon what is included in the word 'debentures' as used in the exemption clause, that is, does it include principal and interest or principal only?"

Many American cases were cited to show that "debentures" included "interest."

Judge Winchester concludes: "In my opinion the principles upon which the United States cases were decided are the proper principles to apply in considering this appeal. I am of opinion that it would be a serious mistake, even if the law permitted it to be done, to tax the interest of the debentures issued by the City of Toronto whenever the same were brought into this country by the purchaser. It would, I consider, have a sensible influence in the prices to be obtained by the city on the sale of such debentures.

"Following the law as laid down in the cases cited I hold that the word 'debentures' in the 18th sub-section of section 7 of The Assessment Act means the principal and interest secured by such debentures and that the assessment of the interest secured by the debentures in question and held by the appellants is not authorized by The Assessment Act."

CITY OF OTTAWA V. OTTAWA ELECTRIC RAILWAY COMPANY.

Claim for Cost of Removal of Snow—For Damages to Streets in Repairing Roadbed of Electric Railway—Restoration of Roadway to Original Condition.

Judgment in action tried without a jury at Ottawa. Defendants' counsel at the trial conceded that plaintiffs were entitled to recover in respect of the claim for the costs of the removal of snow. Judgment for plaintiffs for $79.42, the amount of that claim. The other claim was for the cost of repairs made by plaintiffs to the permanent pavements on certain streets of the City of Ottawa, on which defendants' railway ran, which, it was alleged, were rendered necessary in consequence of defendants having wrongfully broken up the pavement in order to make repairs to their tracks, and having failed to restore it to its original condition when the repairs were completed, and for the cost of repairs to the asphalt pavement on certain other of such streets, which, it was alleged, were rendered necessary in consequence of defendants having broken up the pavement in order to substitute other rails for those which had been laid down, and having repaired the pavement not with asphalt, but with another kind of paving material of an inferior kind, and less durable. With regard to the latter branch of the second claim, the Chief Justice finds that the material with which the repairs were made was used with the approval and consent of plaintiffs, and plaintiffs are not, therefore, entitled to recover. Upon the first branch of the second claim, he finds that under the agreement between the parties asphalt pavements were laid by plaintiffs on the streets in question from curb to curb, including that part of the streets occupied by the railway; that in constructing these pavements plaintiffs failed to "tamp" the concrete under the rails, as they should have done, in consequence of which, in order to make the rails firm, and to prevent their springing, owing to the concrete bed upon which they were laid being improperly and insufficiently made by defendants, it became necessary for defendants to break up the pavement, in order, by "shimming" the rails, to remedy the defect in the