to him, the appeal must be allowed and the order placing McNicol on the list of contributories reversed. The appellant is entitled to his costs of appeal and of the application to place him on the list of contributories.

LATCHFORD, J. FEBRUARY 22ND, 1909.

WEEKLY COURT.

RE LISTER AND TOWNSHIP OF CLINTON.

Way—Opening up of Original Road Allowance—Township By-law—Part of Allowance Enclosed by Private Owners — Substituted Way — Deflected Road, Including Lands of Private Owners — Notice to Owners — Sufficiency —Municipal Act, 3 Edw. VII. ch. 19, secs. 641, 642, 643 —Compensation to Private Owners—Omission to Provide for—Quashing By-law.

Application by Marion Lister and Henry F. Konkle to quash by-law No. 222 of the township of Clinton, providing for the opening up of the original allowance for roads between lots 15 and 16 in the 1st concession of the township.

E. F. Lazier, Hamilton, for the applicants.

A. C. Kingstone, St. Catharines, for the respondents.

LATCHFORD, J:—The applicants are the owners of parts of lots 15 and 16 in the broken front concession on Lake Ontario and lots 15 and 16 in the 1st concession of the township of Clinton. The township was surveyed in 1791. The road allowance sought to be opened is shewn on the plan of the survey; but no road is indicated as then existing along the lake shore. The east half of lot 16 in the 1st concession of Clinton and the broken front of said half lot—in all about 80 acres—were granted in 1819 by one Staats Overholt to one Henry Konkle. The deed does not mention or reserve either the road along the lake or the road allowance across the land between the broken front and the first concession. A description by metes and bounds is expressed in the deed, and within such metes and bounds the road allowance now in question was included. From the original Henry Konkle the east half of lot 16 has come down to Mrs. Lister. The description in the conveyance to her on 23rd April, 1888, follows that in the deed from Overholt to Konkle. Whether the applicant Henry F.