venient road is not already in existence or is not opened by another by-law passed before the time fixed for closing the road, the by-law closing the road may be quashed." See section 629 (1), R. S. O., 1897, of the Municipal Act. This judgment was given on May, 1, 1882, and since then, by cap. 37, section 15, Municipal Amendment Act, 1886, it was provided that if the parties did not mutually agree as to their compensation or the road provided for the owner in lieu of the original road, the matter in dispute should be referred to arbitration. This sub-section is now sub-section 2 of section 629. A council has power to enter upon and take lands for the purposes permitted by the Municipal Act without first making compensation to the owner, who is not entitled to insist upon payment as a condition to the right of entry by the corporaion. See Harding vs. Cardiff, 29 Grant, 308. A municipal council must not open a road in the interest of private persons. They must be prepared to show that the road has been opened in the public interest. See re Morton vs. St. Thomas, 6 A. R., 323. In passing by-laws for establishing roads councils must observe the provision of section 630. In re Ostrom vs. Sidney, Street, J., held that it was not necessary to obtain the consent of the county council before passing a by-law for a road only forty feet wide, but that it was sufficient to obtain such consent before laying out the road. We doubt if this is a correct interpretation of this section, and would advise councils to obtain the consent of the county council before passing the by law or to state on the face of the by law that it is to take effect upon such consent being obtained, and not till then.

The Jenckes Machine Co. Fire.

The works of the Jenckes Machine Co., at Sherbrooke, Que., were slightly damaged by fire on the night of the 13th of August. The loss was not as great as at first reported. The fire was confined to the machine shop building, and the other departments, foundry, boiler shop, etc., were in operation on the following Monday. A few days later a portion of the machine shop was started up, and the whole was in running order on the 23rd of August. The patterns, drawings and office records were preserved practically intact, and all orders for work will be accepted as usual. The principal item requiring replacement is the machine shop roof, which, however is well under way. The whole of the work is being pushed with much energy and the numerous orders in hand will suffer comparatively slight delay.

Two Sufferers—He (sarcastically)—I wonder if the poor ostrich suffered much when they pulled those feathers out of it. She (serenely)—Not half as much as you appeared to suffer when I pulled the price of them out of you.

LEGAL DECISIONS.

In re Powers and Township of Chatham.

Judgment on motion by George Powers to quash a by-law of the township repealing a former by-law, whereby the boundaries of school sections were altered. Held, that the repeal of the by-law was not within the powers of the township council; that after the passing of the by law creating the new school section that by-law could be, in effect, set aside or altered, or its effect prevented or changed, only by means of an appeal to the county council; that the township council's power, once regularly exercised, was exhausted, to revive again only at the expiration of five years. Order made quashing by-law, with costs. Aylesworth, Q. C., and A. B. Carscallen.

The above decision bears out the view taken by the clerk referred to in question No. 344 of the August issue of the WORLD.

McGregor vs. Township of Harwich.

Judgment on appeal by defendant, the municipal corporation of the township of Harwich, from the judgment of Ferguson, J., who tried the action at Chatham, in favor of plaintiff for $2,000 damages, in an action for negligence in leaving a heap of gravel on a highway which was the alleged cause of the plaintiffs (husband and wife), who were driving along the highway, being thrown out of their vehicle, and the wife severely injured. The appellants contended that they were not responsible for the gravel being placed on the road, and at any rate that the damages were excessive. Held, that there was nothing to fix the defendants with liability for the obstruction, there being no evidence to show who put the heap upon the road, and it not having been there long enough for the defendants to have notice or knowledge of it. Appeal allowed with costs, and action dismissed with costs. M. Wilson, Q. C., for appellants. Douglas, Q. C., and Gundy (Ridgetown) for plaintiffs.

Smith vs. Township of Uxbridge.

Judgment on appeal by plaintiff from judgment of Armour, C. J., dismissing the action, which was brought to recover damages for injuries received by plaintiff on the 15th of November, 1895, while driving from Toronto to Greenwood upon a highway in the township at a place about two miles northeast of the Village of Stouffville, alleged to be out of repair. The Chief Justice held that the road was sufficiently kept in repair by the defendants, having regard to the travel upon it and other circumstances. Order made for a new trial without costs. J. W. McCullough for appellant. C. J. Holman and T. W. Chapple (Uxbridge) for defendant.

In re Bell Telephone Company and City of Hamilton.

Assessment of Taxes—Telephone Company—Poles, Wires, Conduits and Cables.

In assessing for purposes of taxation the poles, wires, conduits and cables of a telephone company, the cost of construction or the value as part of a going concern is not the test; they must be valued, in the assessment division in which they happen to be, just so much dead material to be taken in payment of a just debt from a solvent debtor.

Judgment of Assessment Court reversed.

In re Canada Life Asssurance Company and City of Hamilton.

Assessment of Taxes—Life Insurance Company—Reserve Fund Income—Divisional Taxes.

The net interest and dividends received by the Canada Life Assurance Company from investments of their reserve fund form part of their taxable income, though to the extent of ninety per cent thereof divisible—pursuant to the terms of the Company's special act—as profits among participating policy holders, and not subject to the control or disposition of the company.

Judgment of Assessment Court affirmed.

Trenton Electric Co. vs. Town of Trenton.

Judgment on appeal by plaintiffs from judgment of Meredith, C. J., who tried the action at Toronto, dismissing it without costs. It was brought for damages for breach of an agreement between plaintiffs and defendants, and for specific performance of the agreement, and for a declaration of rights. The agreement contained no assent in express words to the plaintiffs placing their poles in the streets or stretching their wires across them; but the trial Judge held, having regard to the method ordinarily adopted for transmitting the electric current, it must be taken that defendants impliedly granted to plaintiffs such rights for these purposes as might be reasonably necessary to enable plaintiffs to carry out their engagements and to enjoy the rights conferred upon them, but there was nothing in the agreement to indicate that the purposes, which the contracting parties had in view were other than local and confined to the limits of the town, and the defendants could not be taken to have assented to a contract which would enable plaintiffs to use the power, which defendants had acquired at great expense, in order to build up their own town, for the purpose of promoting the interests of a rival municipality, and therefore plaintiffs were not entitled to transmit their power to Belleville. The court agreed with the Chief Justice's view and dismissed the appeal with costs. W. Cassels, Q. C., and A. W. Anglin for appellants. Osler, Q. C., and H. S. Osler, for defendants.