

The order of the Board purporting to do so was made in September, 1909; and at that time the Board had power, speaking generally, to annex to a city, or town, part of an adjacent township; there could be, and is, no dispute as to that; the one question is: What was the effect of such an annexation? By the order of the Board, part of the township of Barton was annexed to the city of Hamilton; and a part of the road in question lies within that part of the township so annexed to the city; so that it is now within the territorial limits of the city. Unless, by virtue of that annexation, the county lost and the city acquired control over that part of the road, it yet remains a county road throughout, because the Board in no other way had any power over the road; it is not even suggested that they had.

There are but three parties to an application for such an annexation, the city or town, the township, and the municipal electors of the part of the township to be annexed; and it is important to observe that the annexation may be ordered upon such terms as may be agreed upon, or shall be determined by the Board. The county had no right to be and in fact were not, in any sense, parties to the annexation proceedings.

These things being so, I cannot consider that the Board had any power to deprive the county of any rights it had to or upon the road in question. It could hardly be contended that, were the road still the property of the road company, the Board had power to take it from them and hand it over to the city, though of course the county is not quite in the same position as the road company would be if still owners of the road. It is true that the road company made a conveyance of the road to the county, but I cannot think that that conveyance added anything to the county's rights or duties in regard to the road. They did not purchase it under the provisions of the toll roads enactments; but freed it from tolls under the toll roads expropriation enactments, under which it became a county road.

The Legislature has power to deprive any person or corporation of any civil rights without being heard, and power also to authorise the Ontario Railway and Municipal Board to do so, but it is hardly imaginable that they would; and it would need to be in very plain language—if it were ever done—before effect should be given to it; and, even were that not so, I should be unable to find any warrant in any legislation for an order of the Board vesting in the city a county road, or any part of it.

That the county had substantial interests in the road in question is obvious. They paid \$24,000 to free it from tolls, and to