

and annexed to Burlington, but the annexation was not to take place until the 31st December, 1914. The Board had power to make an order and suspend the operation: Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, sec. 39 (1); and jurisdiction, under the Municipal Act, R.S.O. 1914 ch. 192, to make the change in boundaries.

The point that the application of the village council to the Board for the annexation of the strip was not bona fide was taken in the pleadings, but not substantiated in the evidence.

The population of the village before the annexation was 300 more than 2,000.

The order of the Board misrecited the language of sec. 17 of the Municipal Act; but the error in the recital should not vitiate the action of the Board. There was evidence of the proximity of parts of two streets forming part of the strip annexed, which were before the annexation boundaries between Nelson and Burlington, and the effect of the annexation was to incorporate them into the village—upon these parts of the streets public money of the village had been expended. The recital was inofficious and superfluous, and could not be so read as to indicate that the Board disregarded the statutory directions. If the Board had simply made an order declaring and ordering the annexation of the district without more, it would not have been impeachable because not more explicit: Ontario Railway and Municipal Board Act, sec. 44.

Reference to Bath and Mountague's Case (1693), 3 Ch. Ca. 96, as to the effect of a misrecital in a deed, and the benignant interpretation of charters; and to Dwyer v. Town of Port Arthur (1893), 22 S.C.R. 241, as to erroneous recital in the preamble of a statute.

Every assumption should be made in favour of the validity of such an order: see secs. 47 and 48 of the same Act.

The second order made by the Board was on the 9th December, 1914, granting the application of the village council for the erection of the village into a town. This was warranted by sec. 20 of the Municipal Act. The order provided that the existing limits of Burlington, *including the territory annexed thereto by the Board on the 10th June, 1914*, should be the boundaries of the town. Sub-section 3 of sec. 20 provides that the newly erected town shall be divided into wards as the Board may direct. The three wards designated by the Board did not contain or include any part of the annexed territory. The plaintiff's complaint was, that the council elected by the town, on