of the plaintiffs, and restraining the defendants, the township corporation, from paying therefor or assessing the cost thereof against the lands of the plaintiffs. 6. Damage respectively for any trespass the defendants, or any of them, might commit on the lands of the plaintiffs in or about the construction of the daain, and for any injury they might respectively suffer from the construction of the said drain. The defendants stated that the defendant, George Comrie, was the owner of lot 27 in the 7th concession, and admitted that he had filed the requisition as dated by the plaintiffs. They further stated that all the proceedings for the making of the award were had and taken as required by the Ditches and Watercourses Act; that the award was properly made, and the order of the county judge was conclusive and binding upon the parties, and the plaintiffs were estopped by it, and they submitted that the action was not maintainable. It was held, 1, That where the engineer of a municipal corporation purposes to make an award under the Ditches and Watercourses Act, with respect to the making of a drain, the affirmanance of such award, by the county court judge, does not preclude the high court from entertaining the objection that the engineer had no jurisdiction to make the award; nor is such an objection one for the determination of the county court judge alone. 2. In the absence of a resolution of the municipal council, such as is provided for by section 6 (b) of the Ditches and Watercourses Act, R. S. O., chap. 220, the question, whether the engineer has jurisdiction to make an award depends upon, whether before filing the requisition, the owner filing it has obtained the assent in writing of a majority of the owners affected or interested, as provided by section 6 (a); if he has obtained such assent, the engineer is immediately, upon such filing, clothed with such jurisdiction, and the absence of such notice in form D, required by section 6, would not deprive him of such jurisdiction, but would form only a ground of appeal against the award. 3. The assent of the municipal corporation, as one of the land-owners interested, may be shown, by resolutions passed by the council, directing the engineer to proceed with the work. 4. The term "owner," as used in the act, means the assessed owner, and a tenant, at will, may be an owner affected or interested, within the meaning of the act. 5. That whether the plaintiffs were benefited by the proposed work was a matter to be determined by the engineer, and the subject of appeal to the county court judge. 6. That the mere publication by the engineer, within a year after the affirmanance of an award, of a notice that he would let the work to be done on the land of one of the persons affected by the award, and that such letting would take place after the expiration of a year from such affirmanance, does not afford any ground for an action of trespass.

Direct Municipal Taxation.

The following extracts from a paper by G. H. Grierson, Esq., of the county of Ontario, published with the proceedings of the county council suggests some new ideas for the reduction of municipal taxation, which we consider worthy of bringing before our readers.

"I desire to confine my observations in this paper to a subject which was up for discussion in the last two sessions of our local house—a subject which, in my opinion, requires more light to be thrown upon it in the interest of the public—a subject with many ramifications, the results of which are a large and ever increasing expenditure of money raised by direct taxation; that subject is official fees and local county institutions, and will be confined chiefly to fees and disbursements paid or incurred in connection with the administration of criminal justice and matters incident thereto.

The statute of 9th Vic. ch. 58, 1846, may be taken as the starting point or foundation of our present tax system. The peculiar circumstances which caused that statute to be passed no longer exists—we are no longer united with Lower Canada and it is no longer necessary to assimilate our financial relations—the expenses of the administration of justice have to be paid and it matters little, perhaps, whether they are paid by direct taxation or out of the consolidated revenue of the province as enacted in that statute—as a matter of fact some of the expenses of criminal justice are now paid by the government. The points to which I shall endeavor to call attention are, first, the growth of these fees from the starting point. Next, their necessity in the public interest, and, next, the possibility of their extinction or alteration.

The statute of 1846 gives the number of the items of fees chargeable by the sheriff as 23—the number chargeable by the clerk of the peace, 28—there was no county attorney then.

The statute, R.S.O. ch. 86, 1877, gives the number of items for sheriff as 38—the number for the clerk of the peace as 89, but this does not by any means represent the number or amount of fees chargeable by either of those officers at this date, nor for years before it—fees which had been created by statute and orders in council in the interim since 1846, and only to be found in the statutes and orders which established them—for instance the new jury system had been adopted 13 and 14 Vic. ch. 54, 1850, giving to the sheriff about $500 annually in addition to the jnry fees under the former system, and to the clerk of the peace about $300 in addition to all other fees chargeable by him, and in many cases up to the present day the fees of all these officers are being added to in amount very materially. We also have another officer now to pay, namely, the county attorney.

I have no doubt whatever that it would be found on close investigation that the charges or fees payable in connection with the administration of criminal justice are now three or four times as much in every county in the province as they were in the district at the starting point of our enquiry, 1846, a change brought about by the enormous multiplication of public offices and the continual maintenance of institutions no longer required in the public interest.

* * *

There is little to be surprised at in the increase of public burdens by three or four hundred per cent., and if we add by way of making this statement as to the multiplication of officers more impressive, that every township in the province (and there are more than 500 of them) has nine officers into whose hands, by resolution or salary, passes a portion of our direct taxes; in the aggregate, quite a large sum, anuually $375,000, and then our county councils will soon have to build larger shire halls for their accommodation, they are increasing so rapidly, the current expenses of these bodies now aggregate from sixty to seventy-five thousand dollars annually.

The first question as to the growth of fees is fully answered in the affirmative, the second question, as to the necessity in the public interest for their continuance, is now before us.

If we took the question of expediency on the ground that those who get them could not live without them, then there is not another word to be said, but I feel bound to take another view of the matter and ask, is the work for which we pay in the interest of the people of the province? The court of quarter sessions of the peace, a court which we obtained with the English law in 1792, has now for many years been shorn of the powers granted by the statute 59th Geo. III, 1819, those powers being transferred to the county councils.

The magistrates in quarter sessions can no longer levy and collect rates and assessments, build gaols and court houses, construct roads and bridges or other public works, it can no longer legally manipulate the county funds in any way, it might be added by way of retrospect that when the power of the purse went, the prestige of the court went also, but legislation of late years has been unfavorable to this court in other respects, as its name implies, it used to sit quarterly, it is years since it was decreed that a session every six months would amply supply the public needs. Then the establishment of the county judges criminal court 32-33 Vic. ch. 35, still further withdrew work from it, and the introduction and gradual extension of the police magistracy (32-33 Vic. ch. 32) in various local municipalities has still further contracted its sphere of action, and now there is little doubt that if statistics were pro-

(*To be Continued.*)