

MUNICIPAL DEPARTMENT

LEGAL DECISIONS AFFECTING MUNICIPALITIES.

BAILEY VS. ELMA TOWNSHIP.—At Osgoode Hall in Trial Court proceedings, before Robertson, J., judgment was given recently in action tried at Stratford, Bailey vs. Corporation Township of Elma. The plaintiff claimed that the defendants raised the roadbed of the highway in front of his land (lot 4, in the 15th concession of the township of Elma), and by filling in the water-course through which the water passed in flowing off his lands in a southerly directions caused the water to remain on his land and damage his crops. He also set up an agreement to refer and the award made thereunder, requiring defendants to open a ditch across the adjoining lot 3, deep enough to let off the water. The action was tried with a jury, who found for plaintiff in respect of the raising of the road bed, and assessed the damages at \$300. The question of the award was by consent agreed to be disposed of by the court without a jury. Action dismissed without costs as regards the claim under the award. Judgment for the plaintiff for amount found by verdict with full costs, and directing the issue of a mandatory order requiring defendants to take whatever steps may be necessary to abate the nuisance. Record and proceedings to be amended by adding plaintiff's wife as co-plaintiff.

RE TOWNSHIP OF COLCHESTER NORTH AND TOWNSHIP OF GOSFIELD NORTH.—Judgment on appeal by township of Colchester North from the judgment of the Drainage Referee confirming a report by William Newman, engineer, reporting a scheme for drainage in these townships. It was contended inter alia that the proceedings to obtain the report were not in accordance with the provisions of the municipal drainage act, that the petition was insufficient under sec. 3, and that the engineer did not make and file the affidavit required by sec. 5, that work in question was a new drainage scheme for Gosfield North, and not for the improvement of existing drain No. 15; that the proposed drainage work is in breach of an agreement between the townships pursuant to which Colchester North has paid Gosfield North \$2,000, that the proposed work was not authorized by sec. 75 of the act; that the assessments in connection with the work were unjust and improper; that the drain would work injury to land in Colchester North beyond its termination, which result had not been taken into consideration, and that evidence had been improperly excluded, and an amendment of the engineer's report improperly allow-

ed by the referee. Held, that while an appeal is pending against a report a council cannot refer it back for amendment unless upon consent of all parties, and that treating the amended report as an original report it is bad, because the engineer before making it had not taken again the oath of the office, which is an essential requisite of jurisdiction.

MCCRIMMON V. TOWNSHIP OF YARMOUTH.—Judgment in action tried at St. Thomas. The plaintiff sues on behalf of herself, her children, and the estate of her deceased husband, for damages for injury to property and health owing to the flooding of the land with water which flowed through a drain called the Bailey award drain upon the construction road and on to the land of deceased. Bailey's land lies east and north of injured land. The Canada Southern Railway Co. are third parties. Held, that award made on the proceedings by Bailey under the Ditches and Watercourses Act does not bind the railway company. It is not subject to the

jurisdiction of the engineer under the Act. *Miller v. G. T. R.*, 46 U. C. R., 222, not to the Act which is confirmed to ditches "situate on the property of any railway and running along or under the railway, and the scheme of the engineer did not provide for a proper outlet without damage to adjacent lands giving a fall, etc." Held, also, that the evidence of Smith (who under the award was to construct the third section of the drain) so connected the defendants with the conducting of the water which flowed through the award drain from Bailey's land as to make them responsible for injury to plaintiff. Claim against third parties dismissed with costs. Judgment for plaintiff for \$150 if defendants agree, having regard to secs. 6 and 7, R. S. O., ch. 166, the husband having died more than 12 months before action. If defendants do not agree, reference to junior judge of County of Elgin to ascertain amount of plaintiff's damage and as to liability of defendants for injury which is found to have arisen from flow of water through the Warehouse street culvert, and assessing damages if he finds liability to exist. Further directions and costs reserved.

Portland Cements...

HIGH GRADE GERMAN BRANDS FOR GRANOLITHIC
AND ARTIFICIAL STONE SIDEWALKS.

**Sewer Pipes, Best English Cements. Best Belgian Cements.
Culvert Pipes, &c. W. McNALLY & CO., Montreal.**

JOSSON CEMENT .. Manufactured at. NIEL ON RUPELL

Is the Highest Grade Artificial Portland Cement and the Best for High
Class Work. Has been used largely for Government and Municipal Works.

TO BE HAD FROM ALL CANADIAN DEALERS

C. I. de Sola, Manager in Canada .. 180 St. James Street, MONTREAL



"BEAVER" PORTLAND CEMENT

A HIGH GRADE PORTLAND CEMENT

Manufactured by

THE BEAVER PORTLAND CEMENT CO., LIMITED - WORKS: MARLBANK, ONT

SOLE SALES AGENT:

COMMERCIAL WOOD & CEMENT COMPANY

Canada Life Building, Montreal.

Largest Works in Canada.

Write for Prices.

BELLHOUSE, DILLON & CO., 30 St. Francois Xavier St., Montreal

Sole Agents for the Compagnie Generale des Asphaltes de Franco (Rock Asphalt).

PORTLAND CEMENT NORTH'S CONDOR

Paving and Fire Brick a Specialty

"DYCKERHOFF" and "WHITE CROSS" Brands

NORTH'S "CONDOR" BRAND AWARDED FIRST PRIZE AND GOLD MEDAL AT THE ANTWERP EXHIBITION

THE GEORGIAN BAY PORTLAND CEMENT CO.

OWEN SOUND, ONT.

LIMITED

These works are furnished with the latest and best machinery. The raw materials are of first-class quality. The process of manufacture is well tried and successful, and operated by experienced experts. The product is the finest grade of PORTLAND CEMENT. For further information write

J. W. MAITLAND, Sec.-Treas.

MCGREGOR & MCINTRYE STRUCTURAL IRON WORKS

Trolley Pole Brackets; Electric Light Arms; Prison
and Jail Cells; Fire Escapes; Automatic Fire Shutters
and Doors; Iron Sidewalk Doors, &c.

We Stock BAR IRON, BAR STEEL
STEEL ANGLES, CHANNELS, Etc. 65 to 71 Pearl St., TORONTO, ONT.

MUNICIPAL DEBENTURES BOUGHT

ÆMILIUS JARVIS & CO. (Toronto Stock Exchange) 19-21 King St. West, TORONTO