

From Divisional Court.]

[Nov. 11.

IN RE ROBERTSON AND CITY OF CHATHAM.

*Municipal corporation—Local improvements—Mode of assessment—Appeal—County Court Judge—Prohibition.*

When a sewer is being constructed by a municipal corporation under the local improvement system, and land not fronting on the street in question is benefited as well as land fronting thereon, the proper method of assessment is to determine what proportion of the cost the land fronting on the street shall bear, and what proportion the land not so fronting shall bear, and to assess the proportion payable by each class according to the total frontage of that class, and not according to the benefit received by the lots in that class inter se.

Judgment of a Divisional Court (30 O.R. 158, ante p. 74) affirmed, Burton, C.J.O., and Lister, J.A., dissenting.

But *held* also, reversing that judgment, Osler and Moss, J.J.A., dissenting, that after the County Court Judge had, on appeal by an owner, taken a contrary view and altered the assessment, it was too late to obtain an order for prohibition.

J. T. Small for appellant. Douglas, Q.C., and Aylesworth, Q.C., for respondents.

From Street, J.] NICOL SCHOOL TRUSTEES v. MAITLAND. [Nov. 11.

*Schools—Public schools—Union school section Existence de facto—Alteration of boundaries—"Municipality concerned"—R. S. O., c. 292, s. 5, 42, 43.*

There was no proof of the formation of the union school section in question, but it was shown that for many years a lot in one township had been marked in the assessment roll as in a school section of the adjacent township, to which the taxes received in respect of that lot were paid; that in various reports and returns made by the school the owner of the lot was treated as a ratepayer in respect of the school section of the adjacent township; that his children went to the school established there; and that in the township school map, prepared by the township clerk under the provisions of sub-s. 4 of s. 11 of the Public School Act, R.S.O., c. 292, the lot was marked as in the school section of the adjacent township:

*Held*, that the evidence was sufficient to show that the union school section existed in fact, and that s. 42 of the Act applied to it, so that it must be deemed to have been legally formed.

History and object of that legislation discussed.

Proper corporate description of the trustees of a union school section pointed out.

A municipality in which there is any territory forming part of the union school section in question is concerned within the meaning of s. 43 of the