

*Held*—1. It was the duty of the township clerk under s. 129 of the Assessment Act, without any further direction or authorization, to insert in the collector's rolls the amount with which each ratepayer was chargeable under such by-law; and it was not necessary that the amount levied each year under such by-law should be mentioned in the annual by-law authorizing the levy of sums for ordinary expenditure; and s. 402 of the Municipal Act had not the effect of making it necessary. *Clarke v. Town of Palmerston*, 6 O.R. 616, distinguished.

2. The rate could be levied notwithstanding that none of the debentures had been sold.

3. The failure to collect the rate for the first year after the passing of the by-law did not cause the failure of the whole scheme.

Semble, that if the scheme should fail and nothing be paid to the railway company, the ratepayers could recover their money from the corporation.

*S. H. Blake*, Q.C., and *T. H. Lloyd*, for plaintiff. *Shepley*, Q.C., and *A. B. Armstrong*, for defendants.

Meredith, J.]

[August 29.

GRAND TRUNK R.W. CO. v. CITY OF TORONTO.

*Constitutional law—Railways—Municipal corporations—Construction of highway across railway—Railway Committee of Privy Council—Railway Act of Canada, s. 14—Intra vires.*

Upon the application of the defendants under s. 14 of the Railway Act of Canada for an order authorizing the extension of a street in their city across the tracks of the plaintiffs, the Railway Committee of the Privy Council for Canada ordered and directed that the defendants "may have a temporary crossing, at rail level, for foot passengers only, over the said tracks," upon certain conditions.

*Held*—1. The Provincial Legislature alone had power to confer upon the defendants legal capacity to acquire and make the street in question.

2. It has conferred such capacity.

3. In virtue of its power over property and civil rights in the province, the Provincial Legislature has power to authorize a municipality to acquire and make such a street, and to provide how and upon what terms it may be acquired and made.

4. But that power is subject to the supervision of Federal legislation respecting works and undertakings such as the railway in question.

5. The manner and terms of acquiring and making such street, and also the prevention of the making or acquiring of such a street, are proper subjects of such supervening legislature.

6. Such legislation may rightly confer upon any person or body the power to determine in what circumstances, and how and upon what terms,