

see the Municipal Amendment Act, 1914, 4 Geo. V. ch. 33, sec. 20, for recent legislation on the subject.

An order may go, if it be now necessary: but it will not, of course, be binding upon any public interests in the matter, or upon any private interests, if there be any in either case not represented on this motion, which might be prejudicially affected by the erection of the building.

It is not a case for giving costs to any party against another. The respondent Pearce admittedly acted in good faith throughout, desiring merely to perform the duty imposed upon him, in the other by-law, justly: and there is nothing to indicate that the municipal corporation interfered in the matter in any way; therefore no order, in any respect, is to go against it. The motion as to it will be dismissed without costs: as to the other respondent, the order may go, if necessary, but without costs.

HUBERDEAU V. VILLENEUVE—FALCONBRIDGE, C.J.K.B.—Nov. 5.

*Damages—Negligent Performance of Work under Contract—Loss of Profits—Cost of Repairs—Loss of Business—Counterclaim—Costs.*]—Action for damages for negligence and breach of contract by the defendant in work done by him for the plaintiff. The defendant counterclaimed for instalments of the purchase-money of land sold by the defendant to the plaintiff. The learned Chief Justice finds that the plaintiff is entitled to damages for the collapse of an oven on the 11th August, 1913, as follows: profit as of a whole week, \$35; his own personal trouble and inconvenience, \$5. As to the break on the 10th February, 1914, the plaintiff's witness Gordon Empey said that good materials were used and that the workmanship was quite good in the re-built oven, and that the break was caused by violence applied from the inside, either by accident or design. It was not a very large hole, and it would take a couple of days to repair it. If the defendant ought to be held liable in these circumstances, the amount would be assessed as follows: cost of repairs, \$7; loss of time and profits, \$10. The falling off in the plaintiff's business was attributable (1) to his lack of capital, (2) to his having had small-pox in his house in October, and (3) to his own eccentricities of character and manner, of which he afforded a striking exemplification in the witness-box. Judgment for the plaintiff for \$57 with Division Court costs. Judgment for the defendant on his counterclaim for the instalment of \$100 due on the 1st June,