

gence should be determined having regard to the circumstances existing in October and not to those existing in August. Judgment of Street, J., reversed. *Beaton v. Springer*, Court of Appeal, 12 January, 1897.

*Municipal corporations—Highways—Nuisance—Obstruction—Untravelled portion of highway.*

A municipal corporation is not responsible for damages resulting from a horse taking fright at railway ties piled, without the knowledge or authority of the corporation, on the untravelled portion of the highway, but the person piling the ties on the highway without authority is responsible. Judgment of Meredith, J., reversed in part. *O'Neill v. Township of Windham*, Court of Appeal, 11 May, 1897.

*Contract—Employer's liability policy—Condition—Construction—Conduct of employer.*

An appeal by the plaintiffs from the judgment of Rose, J., at the trial at Hamilton, dismissing the action, which was brought by the firm of Talbot, Cockcroft & Harvey, who were carpet manufacturers at Elora, and by their assignee for the benefit of creditors, to recover upon a policy of insurance against accidents in their factory. An employee in the factory had his fingers cut off by a machine, and brought an action against the plaintiffs for compensation, which action was defended by the present defendants, and recovered \$1,200 and costs, which the plaintiffs in this action sought to recover against the insurers. The defence was mainly based upon a condition of the policy that "the employer shall, at the cost of the company, render them every assistance in his power in carrying on any suit which they shall undertake to defend on his behalf." *Held*, that the implication from the condition was that the employers should not assist the opposite side, and the evidence showed that one of the plaintiffs had assisted the other side, and in view of the case of *Wythe v. Manufacturers Ins. Co.*, 26 O.R. 153, the Court should not interfere to assist the plaintiffs. The appeal was dismissed with costs. —*Talbot v. London Guarantee and Accident Company*, High Court of Justice, 13 May, 1897.

*Constitutional law—Railways—Restrictions under provincial charter against crossing at grade—Ultra vires—Dominion Railway Act 1888, ss. 21, 306, 307—Jurisdiction of Railway Committee.*

The defendants were incorporated to construct an electric