

LEGAL DEPARTMENT.

H. F. JELL, SOLICITOR,
EDITOR.

LEGAL DECISIONS.

ORGAN VS. CITY OF TORONTO.

The plaintiff in this action while walking on Wellington street, Toronto, on 18th January, 1893, slipped on a smooth piece of ice, which had formed on the sidewalk, whereby she fell violently and was seriously injured. The ice was formed by water brought down by a conduit pipe running from the roof of a hotel to the ground, and on the water being discharged from the pipe there was no other mode for it to flow into the gutter. A by-law of the municipality required the occupant of a building—or if unoccupied—the owner to remove ice from the front of a building abutting on a street within a limited time. The defendant had the owner and tenant both made parties to the action. Judgement was given in favor of the plaintiff against the defendant, the city of Toronto, and there was judgment over in favor of the city against the owner—the action as against the tenant was dismissed.

ATTORNEY-GENERAL VS. MANCHESTER.

This was an action brought by the Attorney-General, of England, and certain private owners of property in the neighborhood where the defendants, the city corporation of Manchester, proposed to erect a small-pox hospital in the adjoining municipality, and the plaintiff sought to restrain them from so doing on the ground that the proposed hospital would be a public nuisance. The action failed, the judge holding that a small-pox hospital was not *per se* a nuisance and that the plaintiffs had failed to show that there was a probability that the danger apprehended by the plaintiff would, in fact, ensue. The law of Ontario, however, differs from this decision, the learned Chancellor of Ontario having held in *Elizabethtown vs. Brockville* that one municipality in Ontario could not, under R. S. O., chap. 205, sec. 595, establish a small-pox hospital within the limits of another municipality.

SMITH VS. FORT WILLIAM SCHOOL BOARD
ET AL.

Held that the school board of a city, town or incorporated village have no power or authority to enter into any contract for the building of a school house until the necessary funds have been provided, under 54 Vic., chap. 55, section 116; and that if a certain sum has been provided under that section for the purpose of building a school house, they cannot be allowed to enter into any contract or undertake any work involving the expenditure of any greater sum, and therefore the plaintiff, a freeholder, a ratepayer and elector of the town of Fort William, and a supporter of the public schools therein, suing on behalf of himself and all

other ratepayers, was entitled to an injunction to restrain the public school board of that town, certain individuals, members of the board, and the contractors for the building of a school house, from proceeding with the erection thereof in a case where the contract price exceeded the amount provided under section 116, and to an order compelling the repayment to the school corporation of certain sums paid by individual members of the school board to the contractors for a certain portion of the work already performed.

RE CITY OF OTTAWA MUNICIPAL
ELECTIONS

Judgement on two applications (made in the Ottawa Weekly Court) for a mandamus to command the county judges of Carleton to proceed with the re-count of votes for alderman in two of the wards at the last municipal election. Both judges stopped, because, on opening the ballot boxes, it appeared that the various classes of ballots were not put up in separate, sealed and authenticated packets, as required by the Consolidated Municipal Act, 55 Vic., chapter. 42, section 155. Applications refused with costs, the chancellor holding, upon a review of the various sections of the Municipal Act pertinent to the matter, that the authentication of the ballots by the deputy-returning officers was necessary to show the county judges that the ballots were the same and in the same state and condition as when deposited by the voters.

RE CUMMINGS AND COUNTY OF CARLETON.

Judgement on appeal by city of Ottawa and county of Carleton from order of Boyd, C., in Chambers (14 C. L. T. Occ. N. 451) dismissing motion by appellants for prohibition to arbitrators to prohibit proceedings to ascertain the compensation to be paid to Cummings for lands in the county injuriously affected by the building of a bridge over the river Rideau forming the boundary between the city and county. The main question raised by the appeal was whether arbitration was the landowner's remedy, the claim being against two municipalities, there being no by-law for the doing of the work, and the lands affected not being in the city. Held, that the duty of keeping up and maintaining the approach to the bridge being cast by the law upon the county, the claim for compensation should be against the county, which alone could be compelled to arbitrate in respect of it, and the proceedings against the two municipalities were erroneous, and the appointment of an arbitrator on behalf of both without jurisdiction. Appeal allowed an order made prohibiting proceedings in the attempted arbitration, but not so as to prevent Cummings from commencing and prosecuting proceeding *de novo* against the county alone to compel arbitration, and the county to be set at liberty to set up in such proceedings that compensation has already been made to Cummings.

The Lady Voter.

She walked haughtily yet flutteringly into the voting place to cast her first ballot.

"I want to vote," she said to the returning officer.

"Very well, you will find the tickets right there. How old are you?"

"None of your business," she retorted.

"I beg your pardon, madam, but it is."

"Do you have to know?"

"Yes, madam"

"Do I have to vote?"

"No, madam.

"Then good morning," and out she flounced.—*Detroit Free Press.*

Cowboys.

The question of enforcing a town by-law restraining cows from roaming at large, was the turning pivot which decided the fate of candidates to the Goderich town council at the recent municipal election; and now *The Signal* declares: "The cows elected the new council, and don't you forget it, and the public are hereby warned against sending communications on the nuisance to *The Signal* hereafter. The cows own this town, and anyone who doesn't like the cows is at liberty to leave town."

Tubing made from wood pulp is coming into use for underground purposes, owing to its high electrical resistance and its freedom from the action of earth-return currents, which seriously injure gas and water pipes in cities where electric cars use the ground to complete their circuits. It is also free from difficulties due to expansion and contraction.

In a town not far from Almonte, during the recent municipal election, the mayor, who was a candidate for re-election, met a constable with a prisoner on the road to the lock-up. The mayor took the prisoner from the constable, went with him to the police court, tried and acquitted him, and then took him to the polls and got him to vote for him. Judge McDougall of Toronto, is badly needed in that town, but a new mayor is worse needed.—*Almonte Gazette.*

One voter out of six in Vancouver, B. C., went to the polls in the late municipal election. There are six thousand registered electors in the city, but the mayoralty candidates combined polled only one thousand votes. This indifference is naturally regarded as dangerous, and furnishes an argument in favor of the government of cities by commission, which is at present being discussed in the legislature of that province. When the people so lose interest in municipal affairs their franchise is of little use to them.—*Mail.*