

within the county of York, such crossings being at the north limit of the city of Toronto, and that the corporation of the city of Toronto should contribute to the cost and maintenance. Subsequently the committee, upon the representation of the city corporation, made an order that the township and county should contribute part of the share of such cost originally allotted to the city.

Held, having regard to sections 11, 18, 21, 187 and 188 of the Railway Act of Canada, that the British North America Act conferred upon the Parliament of Canada the exclusive legislative right to deal with the Canadian Pacific Railway and with the guarding of the crossings; that legislation upon such a subject was necessary legislation; that the Dominion Parliament could and did confer upon the Railway Committee the power to make such orders as those in question; that it was within the power of the committee to determine what persons were interested in the crossings; that the court had no power to review such decision, it being declared to be final; and that the fact that the highways in question were vested in municipalities, or in any sense controlled by them, did not in any wise limit the powers of Parliament to legislate respecting the subject, or of the Railway Committee to make the orders in question, but that the municipal corporations were subject to such legislation, and to the orders made thereunder as any private individual would be.

#### In re Elliott and City of Winnipeg.

Municipal Corporations—By-law—Application to Quash—  
Illegality—Delegation of Authority to Officer of Corporation.

Application to quash, on the ground of illegality, a by-law passed by the council of the city of Winnipeg, No. 1004, for the licensing, inspecting, and regulating of dairies and vendors of milk.

Section 1 provided that every person who carries on, within or without the city, the trade of vendor of milk, for the purpose of sale or supply of milk for use in the city, should first obtain a license therefor and be registered as such.

Section 3 provided that it should be lawful for the health officer or veterinary inspector to enter in and upon all dairies and other buildings used by the vendor and inspect the same, and, if satisfactory to him in all respects, he should direct a license to issue to such dairyman upon payment, etc.

Held, that s. s. 1 and 3 of the bylaw should be quashed with costs.

The by-law, so far as it related to vendors of milk who resided and had their dairies outside the city limits, exceeded in some respects the legislative authority.

The inspection of dairies, etc., is purely ministerial work, and may be performed by the officials employed by the council for that purpose, but section three hands over to the health officer a duty that is

more than ministerial. It authorizes him to direct the issue of a license without any report of the result of the inspection, or any further reference to the council; and an official is thus enabled arbitrarily to decide whether an applicant is to receive a license or not. This is a delegation of authority that cannot be justified; for the council has really delegated to an official the judgment and discretion that the Legislature intended and expected that it would exercise itself. Such a delegation of authority might result in injustice and hardship, and this provision of the by-law must be held to be illegal; *Regina v. Webster*, 16 O. O. 187; *Hitchcock v. Galveston*, 96 U. S. R., 341.

#### Public School Rates.

The Public Schools Act, 1896, makes important changes in the system of levying public school rates.

The grant heretofore made by county councils as the equivalent of the government grant to townships is dispensed with. The original intention of this grant, was that it should be levied by uniform rate over the whole county. In practice, however, it was found in almost every case to be levied on the township, and thus as a matter of fact, was a township rather than a county grant.

The schools will as formerly receive the government grant, separate schools will receive their portion of the grant direct from the Education Department, and that of the public schools will be paid through the city, town and village treasurer, and township sub-treasurer.

Trustees in Townships when preparing their estimates should know that the Municipal grant heretofore made by County Councils has been dispensed with, this was formerly received on Public School Inspector's order, and in fixing the amount of the annual requisition was considered as an asset. Under the new Act, the Municipal Council of every township is required to levy and collect by assessment upon the taxable property of the Public School supporters of the whole township the sum of \$150 at least for every Public School which has been kept open the whole year exclusive of vacations. Where the school has been kept open for six months or over, a proportionate amount of the said sum of \$150, at least shall be levied and collected by assessment upon the taxable property of the whole township. An additional sum of \$100 at least shall be levied and collected in a similar manner for every assistant teacher engaged for the whole year, and a proportionate amount if such assistant teacher was engaged for six months or over.

In the case of union school sections the municipal council of each municipality of which the union school section is composed shall levy and collect upon the taxable property of the respective municipali-

ties the said sum in the proportion fixed by the equalization provided under section 51 of the Act. This does not apply to union sections formed between townships and villages, towns or cities. In the township part of these union sections, no portion of the \$150 to be levied for each public school, is to be raised as they do not receive any benefit therefrom.

The advantages of the change are briefly these:—(a) The routine of collecting the grant through the county from townships, which was merely a matter of book-keeping, is dispensed with. (b) The inequality which exists in the township with regard to the rates to be levied for the maintenance of schools will be reduced and the smaller sections, which for local or other reasons could not be enlarged, will be aided. (c) Township Councils will be to a great extent relieved of the disagreeable duty of altering school boundaries with a view to meet the complaints of taxpayers. (d) The loss to a school section by rendering useless school houses that might have to be abandoned by the change of school boundaries will be obviated. (e) Small school sections that were heretofore open for six months only will be able to keep open during the whole year.

#### Citizens' League.

One of the fruits of the victory won by the Citizens' League, the municipal reform association which carried New Orleans at the election last month, will be a brand new city charter, different from anything ever seen here before, "up to date," and a radically reform type. One of the most novel and striking features, which will go into operation at once, is the introduction of the civil service rules for all city offices, save a few confidential ones. In no city in this country has the spoils system been more brutal than in New Orleans, and nobody can predict what will be the effects of this innovation. The Citizens' League finds the civil service system absolutely essential to municipal reform, as it has very nearly been wrecked on the shoals of office-seeking. Out of 18,000 white men who voted for "reform" over 3,500, or one in five, asked for office as a reward for their services—and there were only a few offices to give out. This is probably below the average in Louisiana, where one in every 40 white men holds public office, and one in every four is a standing candidate for it.—*Harper's Weekly*.

#### The Real Drain.

The drain on the farmer's resources  
That is really the tryingest load.  
Not only to him, but his horses,  
Is caused, as you know it of course is,  
By not rightly draining the road.

—L. A. W. Bulletin.

"The editor died last night."  
"Great sakes!" cried the old delinquent, "if I'd known he'd have took it so hard I wouldn't have stopped my paper!"—*Atlanta Constitution*.