MUNICIPAL DEPARTMENT

LAYING OF ASPHALT PAVEMENT.

TORONTO, Nov. 1st, 1899.

Editor CONTRACT RECORD:

DEAR SIR,—In your issue for this week you characterize the laying of asphalt pavement with "binder coat" as a "new system." It may be new to Ottawa, but it certainly will be news to asphalt paving companies to learn that it is any departure from past practice. The Barber Company laid 24,000 square yards in London, Ont., some four years ago in the same way, and it had been their practice for some time.

Yours truly,

W. T. ASHBRIDGE.

LEGAL DECISIONS AFFECTING MUNICIPALITIES.

Mr. Justice Falconbridge, in the case of Ricketts against the town of Markdale, gave a decision of the utmost importance to municipal corporations. Judgment was in regard to an action tried at Owen Sound brought to recover damages for loss occasioned to plaintiff owing to the death of his child, under 21 years of age, while playing on the highway. The court finds all the facts in issue in the plaintiff's favour, and assesses damages of $450, but finds himself, in the absence of English or Canadian authority, obliged to follow the proposition of law laid down in some of the United States, viz: "Little children using a highway merely for play purposes are putting it to a use for which it was not intended, and cannot recover for damages due to defects or obstructions." The American causes supporting the foregoing proposition seem to be founded on a condition of law as to municipal liability similar to that existing in Ontario. This ground is a complete defence to the present action, and defendants must, therefore, pay the costs to the third party brought in for their protection. Judgment accordingly and dismissing action without costs. Stay for thirty days.

The Town of St. Louis (defendant in court below), appellant, and Kinsella (plaintiff in court below), respondent. This was an appeal from a judgment which condemned the appellant to pay the sum of $550 damages. The respondent alleged in his declaration that on or about the 19th October, 1897, about 6 o'clock in the afternoon, he was driving a pair of valuable horses, attached to a carriage, in the town of St. Louis; that on reaching the vicinity of what is known as Charbonneau's Mill, on St. Lawrence street, in the town of St. Louis, the horses came into contact with a pile of lumber which there obstructed the public road, became unmanageable, and ran away, overturning the carriage and throwing respondent violently to the ground, the result being that he sustained serious bodily injuries, for which and the injury to horses and vehicle, respondent claimed $900 damages. The appellant pleaded in substance non-responsibility, and that it was in no way responsible for the accident complained of. The court below held that the respondent had proved the allegations of his declaration, and more especially that the accident was due to the fault and negligence of the appellant; that a certain quantity of lumber had been left and laid down partly on Charbonneau's property, and partly on the public road, thereby obstructing the same. The court held that a municipal corporation is bound to keep roads and streets under its control free from obstructions, and likewise bound to indicate dangerous places and warn the public of such danger and obstructions. Judgment was rendered against the appellant in the court below for $550. In appeal the court held that the judgment was erroneous and must be reversed. The facts were that on the 19th October, 1898, Madame Charbonneau was the owner of a mill on the west side of St. Lawrence street, in the town St Louis. One Claude had, during the afternoon of the 19th October, carted planks from the Canadian Pacific Railway Station to the Charbonneau mill. His loads of planks were deposited on the sidewalk opposite the factory. At the third trip, the foreman told him to deposit the load in the same way on the sidewalk. Claude was returning with his last load of planks about 6.30 p.m. He backed to the sidewalk and deposited a load of planks one inch thick by 12 feet long. A length of 5 feet of these planks remained on the sidewalk, and the rest on the street side. Claude affirmed that at this moment the electric lights at the corner of the Pacific and Lorette streets were lit, and were giving light as far as the Charbonneau factory, so as to light perfectly the sidewalk of street, and to permit every body who wished to see the planks deposited on the sidewalk and the edge of the road. The court in appeal came to the conclusion that there was no proof of any negligence or fault imputable to the appellant, and the judgment was therefore reversed, and the action dismissed.

The temperature of calcination of Portland cement was recently investigated by Mr. R. Feret at the Boulogne-sur Mer plant in the following manner, according to the "Bulletin" of the Society for the Encouragement of National Industry: Bars of hard steel up to 31 inches in length were imbedded in the contents of continuous kilns, which were known to work regularly and to yield cement clinker of normal quality, and in every case the steel vanished. A bar of square iron placed in the same kiln was found to have been melted away for about three-quarters of its length. Two bars of the same iron, each 6½ feet in length, were placed vertically in a Hoffmann cement kiln, in two different places in the middle of the brick of cement material, and a certain distance away from the feeding holes, serving for the introduction of the fuel. After the calcination was completed only about half of each bar was found. For various reasons it may be assumed that the temperature needed to produce cement clinker is above that of the melting point of steel, and corresponds very closely with that of wrought iron, viz., 1600 C. It results from these experiments that a trial kiln for the study of cement mixtures should be capable of readily reaching a temperature of 1800° C., because the pure mixtures would be devoid of the fluxes commonly present in the materials generally used for cement.