

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE COURT OF THE DRAINAGE REFEREE

CITATION: **McKeen v. East Williams (Town)**
1966 ONDR 1
DATE OF DECISION: **1966-05-31**
FILE NUMBER: **1966-01**
STATUTE: *Drainage Act*
HEARING: - -

BETWEEN:

LAWRENCE McKEEN,

PLAINTIFF,

- AND -

THE CORPORATION OF THE TOWNSHIP OF EAST WILLIAMS
AND
THE CORPORATION OF THE TOWNSHIP OF ADELAIDE,

DEFENDANTS.

IN THE MATTER OF THE DRAINAGE ACT, 1962-63 STATUTES OF ONTARIO,
CHAPTER 39, AND IN PARTICULAR SECTION 35 THEREOF,

AND

IN THE MATTER OF THE APPEAL BY LAWRENCE McKEEN, R.R.#6, STRATHROY,
ONTARIO, AGAINST THE CORPORATION OF THE TOWNSHIP OF EAST WILLIAMS IN
RESPECT OF THE WYATT-McKENZIE DRAINAGE WORK AND THE REPORT OF S.W.
ARCHIBALD, P. Eng., O.L.S., DATED THE FIRST OF MAY, 1964.

REASONS FOR JUDGEMENT

This is an application to set aside or modify an engineer's report for the construction of a drainage work, the cost of which is to be assessed against the defendant townships and to quash the by-law of the township of East Williams which adopted the report. The plaintiff is a farmer and he is assessed as owner of lands in both defendant townships. The grounds on which he appeals are set forth in the Notice of Appeal and in the Statement of Claim to be the following:

1. That no proper petition under which the proposed drainage works may be constructed under the Drainage Act exists.
2. That the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof.
3. That the engineering data on which the said report is based does not accord with topographical conditions of the area affected by said report.
4. That the drainage works should be modified on the following grounds, namely:
 - a) A proper allowance should be made to owners who already have drainage, for use of their drains to be taken over in the said report.
 - b) That the area to be drained could be drained more effectively by taking the water away in a different direction.
 - c) That the proposed drainage works carry the water against the natural flow thereof.
 - d) That the water from the area to be drained could be taken in a different direction more effectively and with greater fall.
 - e) That the route proposed for said drainage works is unnecessarily long and could be shortened considerably by going in the proper direction.
 - f) That the proposed drainage works interfere with an area which does not require drainage and such interference is totally unnecessary.

In the month of December 1963 or January 1964, a petition for drainage in the form prescribed by the Drainage Act 1962-63 (herein after referred to as "the Act") was filed with the council of the Township of East Williams. The prayer of that petition, which is Exhibit 4, was that "the following lands may be drained by a drainage works:

Lot 9, Concession 7, East Williams township;

Lot 10, Concession 7, East Williams township;
Lot 19, Concession 4, Adelaide township;
N 1/2 of E 1/2 of lot 19, Concession 3, Adelaide township.”

The signatures appearing on the petition were those of John A. McKenzie, Mary Ellen McKenzie, Lorne Wyatt, Beulah Wyatt, Lorne Wyatt, Beulah Wyatt.

The last revised assessment roll for the township of East Williams, a copy of which is filed as Exhibit 5, discloses that lot 9 of concession 7 East Williams, 100 acres, is owned by John McKenzie and Mary Ellen McKenzie. Lot 10, concession 7 in that township is owned by Lorne Wyatt and Beulah Wyatt.

Exhibit 8 is a certified copy of a portion of the assessment roll of the township of Adelaide. It shows Lot 19, Concession 4, 17.5 acres and the N 1/2 of the E 1/2, Concession 3, 50 acres, as being assessed to Lorne Wyatt and Beulah Wyatt as owners.

These two parcels comprising 67.5 acres are shown on Exhibit 2 to be adjacent lands which fit together to form an “L” and the northerly boundary of lot 19 is Queen’s highway No. 81.

Lots 9 and 10, concession 7, in East Williams are directly across Highway 81 from the lands in Adelaide. The area of Lots 9 and 10 is shown as 200 acres. It follows, then, that we have an L-shaped parcel containing 67.5 acres on the southerly side of Highway 81 lying in Adelaide and directly across and on the northerly side of highway 81 in East Williams the 200 acre parcel described in the petition as lots 9 and 10.

An examination of Exhibits 2 and 8 also shows a half-acre parcel of land which appears on Exhibit 2 to be located at the northeast corner of Lot 19, concession 4 Adelaide. The parcel is assessed to the East Adelaide United Church as owner. Exhibit 2 shows a highway called 10-11 sideroad, forms the easterly boundary of the lands in East Williams. A second highway, 18-19 sideroad, forms the westerly boundary of lot 19, Concession 4 Adelaide. As has been indicated above, Queen’s highway 81 is located in the centre of the area described in the petition although it is not itself described.

The petition, Exhibit 4, was referred to the township engineers of East Williams, Messers. Archibald Gray and McKay, with instructions to prepare a report. On May 1st, 1964, Col. S.W. Archibald, P. Eng., O.L.S., reported. His report recommended the construction of a drainage system to be known as the Wyatt-McKenzie drainage works at an estimated cost of \$17,520. This report was considered by East Williams’ council on May 28th, on which date it was provisionally adopted.

In its natural state, the land in the area dealt with in Col. Archibald’s report, which includes the land described in the petition, drains into a meandering natural watercourse called Mud Creek. The course of the stream is such that it almost circles the area, coming nearest to it at the most easterly limit

where it has been improved and is known as The Mud Creek Municipal Drain. The distance at this point is between 1,000 and 1,500 feet from the most easterly limit of the petitioning area to Mud Creek. The distance westerly from the westerly limit of the petitioning area to Mud Creek is about one and a half miles.

The evidence supports the view that the whole of the area assessed under the report including the area described in the petition is relatively level. This is apparent from Exhibit 9, which is a copy of the Dominion Department of Mines and Technical Surveys Sheet of Parkhill 40 5/4 East half. On this sheet, which is contoured at intervals of 25 feet, there is one contour marked 775, which rises south of No. 81 Highway and extends westerly to lot 18, Concession 4, Adelaide in roughly the position of the southerly limit of the watershed shown on Col. Archibald's plan, Exhibit 2. The whole of the remainder of the area with which we are concerned lies in a 750 contoured area.

Artificial drainage facilities have been constructed in the area. There are at least four award drains, the first of which was constructed about 1894. These all flow westerly to Mud Creek. In addition, there is a private drain which flows easterly into the Mud Creek Municipal Drain. One may fairly summarize by saying that the present drainage of the area described in the petition is easterly into Mud Creek Municipal Drain as do the land or most of the lands of the petitioners Lorne and Beulah Wyatt and westerly into Mud Creek as do the balance of the Wyatt lands and as do all of the lands of the petitioner McKenzie.

All of the other lands assessed under the report, excepting the lands of the Wyatts, now find their outlet in the drains constructed to flow westerly into Mud Creek.

I now direct my attention to the petition which is Exhibit 4. If this document were read literally, it appears that the lands of the petitioners in East Williams requiring drainage comprise the whole of Lot 9 and 10, Concession 7, a total of 200 acres. Similarly, the lands of the petitioners in the Township of Adelaide comprise the whole of lot 19, concession 4 and the N. 1/2 if the E. 1/2 of lot 19, concession 3, a total of 67.5 acres.

Mr. J.A. McKenzie, the petitioner who owns lot 9, concession 7, East Williams, gave evidence that his drainage problem was confined to an area at the southeast corner of his farm. He said that about two acres carried surface water and that surrounding this two-acre parcel was a larger area that was low and waterlogged so as to be unusable for cultivation of crops. The report, Exhibit 1, shows McKenzie assessed for benefit for 50 acres of land.

Lorne Wyatt, the petitioner who is an owner of lot 10, concession 7, East Williams, said in evidence that three acres of this parcel carried surface water and an additional surrounding area of 13 acres was waterlogged. Under the report, a total of 40 acres of the Wyatt lands in East Williams is assessed benefit. Wyatt did not give in his evidence the precise area of his land affected in Adelaide

township. However, the engineer in his report assesses 17 acres for benefit. It would follow that the total area assessed for benefit of the lands described in the petition is 107 acres. The total assessment for benefit against the lands of the petitioners is \$2,400.00. These petitioners are also assessed under the report for outlet, a total of \$970.00.

Turning to the report, we find that the acreage to be assessed for benefit totals 422 acres. The total assessment for outlet is \$3,840.00. If one compares these three figures on a percentage basis, the petitioning lands will constitute a little over 25 percent of the lands assessed for benefit under the petition. The petitioning lands will pay a little over 17 percent of the benefit assessment and a little over 25 percent of the outlet assessment. I hasten to point out that one should not draw any conclusions as to the merits of a drainage scheme or as to whether or not the petitioning area is a real drainage area as a result of a mathematical calculation. However, these figures do give some idea of the magnitude of the proposed scheme in comparison with the petitioning area.

I think it should be noted that the Notice of Appeal was a notice of appeal from the report and the authority for such an appeal is to be found in Section 35. The pleadings, however, include as well as the claim for setting aside or amending of the report, a claim that the by-law adopting the report should be quashed. It would appear that the rights of an appellant who appeals against a report under Section 35 may be more limited than his rights on an application to quash. In light of the pleadings, I feel that I should exercise the powers conferred by Section 67(2).

I proceed, therefore, to consider first the validity of the petition. It is hardly necessary to state that if the petition be invalid, any by-law passed in the purported exercise of the powers conferred by the Act is eligible to be quashed.

It is now more than 20 years since a reported case has dealt with the requirements of drainage petitions. In 1945, Mr. Justice Gillanders in *McDougal, et. al. vs. Harwich*, 1945 O.R., 291, delivered, in his usual lucid style, the tests which should be applied to determine whether or not a petition was valid. In the course of his judgment he cites with approval the report of Referee Henderson in *Duane vs. Finch*, 1908, 12 O.W.R., 144, dealing with the same subject.

The decision of Referee Henderson was the first to deal with the section governing petitions which had been enacted by Subsection 1 of Section 2 of 6 Edward VII, Chapter 37. That section appeared as Subsection 1 of Section 2 of the Municipal Drainage Act at the time of the decision in *McDougal, et. al. vs. Harwich*. The section here to be applied is Subsection 1 of Section 3 of the Drainage Act, 1962-63.

The wording of the new section differs materially from the wording which appeared in the above-mentioned cases.

Prior to 1906, there had been conflicting decisions as to what was required to constitute a

sufficiently signed petition. Some earlier cases had held that the majority contemplated by the earlier section was a majority of those who were ultimately assessed for benefit under the engineer's report. So long as the authority of these cases remained unimpaired, it was problematical whether there was any obligation on a council, before referring a petition to an engineer, to even consider whether it appeared to be sufficiently signed. The reason, of course, was obvious. No computation of how many persons were assessed in the areas could be made with certainty until the engineer settled the number in his report.

However, even prior to 1906, at least up until The Drainage Act of 1962-63, there was never any question that a petition must describe a real drainage area and it follows that there was always an obligation on a council, before acting on a petition, to satisfy itself that a real drainage area was described in the petition. In my view, this decision should, if possible, be made by a council before it requests a report. The obvious reason is that by doing so the cost of a report may be saved. However, the members of a council are not required to be trained as engineers nor to exercise the skills of engineers. But before a council exercises its power to pass a provisional by-law, it has the benefit of an engineer's advice. In my view, a council must come to a conclusion as to whether or not the petition describes a real drainage area either before it refers the petition to an engineer or, in any event, before it passes a provisional by-law adopting the report. If the petition does not describe a real drainage area, the report and the resulting by-law must be set aside.

I have carefully compared Section 3(1) of the Drainage Act, 1962-63 with its predecessor and I have come to the conclusion that this requirement remains unchanged.

The second responsibility which the council must discharge is to satisfy itself that the petition has been signed by a sufficient number of qualified landowners. It is my view that the wording of subsection 1 of Section 3 makes this a simple mathematical calculation. The assessment roll discloses who are assessed as owners of the lands described in the petition. These landowners and only these are considered. If a simple majority of all of them has signed, then the petition is a majority one.

It is convenient to deal with this latter requirement before considering whether the area described in the petition constitutes a drainage area.

This petition has been properly signed by four qualified persons assessed within the area described in the petition. I use the term "qualified" to mean that they appear as persons assessed as owners on the last revised assessment roll. This shows that all lands in lot 19, concession 4 and the N.E. 1/2 of lot 19 concession 3 are assessed to Lorne and Beulah Wyatt as owners.

It may be open to argument that the assessment roll is not correct. The evidence discloses that East Adelaide United Church, which is assessed as owner of part of lot 20, concession 4, is in fact the owner of part of lot 19 and not lot 20.

Similarly, the assessment roll shows Department of Highways assessed as owner of part of lot 20, concession 4 when it seems clear from Exhibit 2 that the Department of Highways owns land in lot 19 as well as lot 20.

These arguments would overlook the plain reading of Subsection 1 of Section 3. The land described in the petition, read with the assessment roll, is the only method of arriving at the conclusion concerning the adequacy of the number of signers.

It is clear from the evidence that lot 20, concession 4 is hardly to be distinguished from the other lands in Adelaide which are described in the petition. One may wonder why this gore lot was not included. If it had been Walter Westbrook and Anna Westbrook as well as the Department of Highways and East Adelaide Church would have fixed the total number of eligible assessed owners at eight and the petitioners would have fallen short of a majority. As I have said, the approach is not, I think, available to the appellant. Therefore, I have come to the conclusion on the evidence, having regard to the provisions of Subsection 1 of Section 3 of the Act that the petition, Exhibit 4, qualifies as a sufficiently signed petition.

I now direct myself to the question of whether or not the lands described in the petition comprise a drainage area within the meaning of Subsection 1 of Section 3. I have not found a definition of a drainage area in the decided cases. From time to time, it has been decided that the area described in a particular petition is or is not a drainage area within the meaning of the drainage statute then in force.

In view of the responsibility that the municipal council has under the Act, it does seem that a workable definition might be helpful. The difficulty in fixing a comprehensive definition seems to be that there are many types of works which come within the scope of the Act. As the need for more and more agricultural land has developed, works called "drainage" has evolved from the open ditches and tile drains. The Drainage Act contemplates the work of improving natural watercourses, the construction of dykes, the removal of water by pumps and the protection of shorelines by seawalls and jetties. If, therefore, one keeps in mind this variety of artificial works which may be undertaken within the scope of the Act, I think it is possible to define the term "drainage area" as it is used in the Act. I believe it may be said that a drainage area is a compact tract of land bounded by a ridge or surface barrier which tract could secure some relief from flooding or some lowering of its natural water table if an artificial drainage work were constructed in or near it.

It has been said that a drainage area must be within a watershed. This statement is axiomatic since all lands lie within a watershed. The real meaning of the term "watershed" as it is used in drainage cases differs from the dictionary definition. The dictionaries say that a "watershed" means the area drained by a river or river system. It also defines "watershed" as a ridge or stretch of high land dividing the area drained into different rivers or river systems. It will be readily seen that this word may be used

to describe both the area of land and the bounding feature which distinguishes or separates that area from other such areas. The essential differences between the term as it is set out in the dictionary and as it is used in drainage parlance has to do firstly with the size of the area contemplated and secondly with the nature of the ridge or boundary.

Dealing with the matter of area, the watershed contemplated by the authorities includes not only an area drained by a river but as well an area drained by any watercourse as well as an area capable of being drained by an artificial work even where no watercourse exists. In the matter of the boundary of a watershed as contemplated in drainage decisions, that boundary may be either a natural or an artificial barrier separating the direction of flow of surface waters.

It is not always easy to fix the boundaries of a drainage area. In some of the area of Ontario particularly in the flat lands of southern and southwestern Ontario, these limits can only be ascertained by an engineer after he has had an opportunity to make a survey. For this reason, it may not be possible for a council at the time it receives a petition for a drainage work to decide whether or not the land described is a drainage area. It can, however, reach a decision once it receives an engineer's report. I read the Act to mean that it is under a duty to make this decision before it passes a by-law to proceed with the work. A municipal council cannot avoid its statutory responsibility by calling in an engineer and blindly acting on his recommendation.

This brings us to the question of whether or not the area described in this petition, Exhibit 4, is a drainage area within the meaning of the Act. It is, I think, open to me to find on the evidence that the lands described in the petition comprise parts of two drainage areas. Whether or not this be so has given me some concern. One can best appreciate this problem by examining the plan prepared by Col. Archibald and appearing at the lower left hand corner of Exhibit 2. This plan shows that the easterly three quarters or more of the south half of the Wyatt lands together with a portion of Highway Number 81 and a part of the West part of the lands in Lot 8, Concession 7, East Williams are enclosed by a dotted line used to indicate the boundaries of a drainage area.

The profile indicates that the report proposed that these lands lying within this dotted line are to be drained easterly to Mud Creek Municipal Drain. This, it seems, would qualify that area as a drainage area. If this were so, then it would follow that the petition, Exhibit 4, does not describe a real drainage area.

It would also follow that the majority of the qualified petitioners within the area have not signed. If this were a proper view of the facts, it would follow that the lands of the McKenzies in East Williams and the lands of the Wyatts in Adelaide are located at the head of a larger drainage area which can be drained in the opposite direction, to the west. On this assumed state of facts, it would follow that the McKenzies and the Wyatts are by no means a majority of the owners of lands assessed within this

second drainage area.

As a general proposition of law, it cannot be said that under no circumstance may a petition be valid if it describes more than one drainage area as the land requiring to be drained. But, it would be unusual, indeed, if a petition describing two areas were permitted to stand if it did not contain the signatures of the majority of the eligible petitioners in each of the drainage areas described.

I have come to the conclusion upon the whole of the evidence that the lands described in Exhibit 4 comprise a real drainage area within the meaning of the authorities of the Act. I have reached this conclusion from the combined evidence of Col. Archibald and W. G. McGeorge. Col. Archibald has testified that he has been acquainted with this particular area of Middlesex county for many years. On the 10th August, 1962, he wrote a letter to Mr. Fox, the township Clerk, recommending a municipal drain to improve the area. In that letter, which is Exhibit 7, he speaks of requests from landowners dating back 12 years before the letter. I must say that this letter, by itself, is not conclusive in determining the area described in Exhibit 4. But in addition to Exhibit 7, there was filed Exhibit 6, which is a petition with which Col. Archibald was familiar. This petition shows that Col. Archibald witnessed the signature of the petitioner Lorne Wyatt.

This petition was for drainage of the lands described as:

The N. 1/2 of the E. 1/2 of lot 19 con 11 Adelaide;
 lot 19, concession 14 Adelaide;
 lot 9, concession 7, East Williams;
 lot 10, concession 7, East Williams;
 lot 11, concession 7, East Williams.

The drainage was to be by means of "a drain or drains to an outlet in the Mud Creek Municipal Drain on the W 1/2 of lot 11, concession 7 East Williams."

The petition was subsequently withdrawn but it, together with Exhibit 7, clearly shows that in the opinion of Col. Archibald the lands described in that subsequent petition, Exhibit 4, comprise a drainage area which was capable of being drained in an easterly direction to Mud Creek Municipal Drain. There was no evidence of any change in the area since 1962.

Mr. W. G. McGeorge, who is regarded as the dean of drainage engineers in this province, supported this view. It was his opinion that the lands described in this petition comprised a drainage area capable of being drained easterly to Mud Creek Municipal Drain.

Mr. H. H. Todgham, also a widely acknowledged authority on drainage, was not prepared to agree that the lands described in the petition comprised a drainage area. Upon the preponderance of

expert evidence, I find that the lands described in the petition are a real drainage area.

I now direct my attention to the report which is Exhibit 1. One must consider and read with the report the plan and profiles referred to in the report. This document is Exhibit 2 in the action. In addition, I have the benefit of explanations given by Col. Archibald.

The first feature of the report which attracts one's attention is the size of the area assessed under the report by comparison with the size of the area described in the petition and the proportion of the proposed assessment which it will bear.

The second feature of the report is the cost of the proposed work in comparison with the cost of a drain which could serve the area described in the petition if all of the water was taken easterly to Mud Creek Municipal Drain. Specifically, the work proposed in the report will cost an estimated \$17,500. The cost of constructing a drain to Mud Creek Municipal Drain would be about \$2,000, according to Col. Archibald's evidence.

The third noteworthy feature of the report is that it provides for a continuous drain, part of which drains to the east but most of it would carry the water which it collects to an outlet to the West.

I think on the authorities that no one of these objections to the report are fatal nor, for that matter, are all three combined sufficient in themselves to settle whether or not the report should be set aside. Those who petition for drainage are not experts and their views may be totally inconsistent with the realities revealed by a survey and calculations made by a trained engineer. In this situation, for example, I have no hesitation in accepting the evidence of Col. Archibald as opposed to that of McKeen concerning the question of whether or not the proposed scheme will increase the hazard of flooding to the McKeen lands.

The Act and the authorities have conferred a wide discretion on engineers and it may be that in the exercise of that discretion a particular scheme may require to flow in the opposite direction to that contemplated by the petitioners. Quite clearly, as counsel for East Williams has pointed out, an engineer may validly report a scheme which includes additional lands over and above those described in the petition. In a proper situation, the engineer's report may properly recommend a more costly scheme, even one which proceeds to a different outlet. The case of McDougal, et. al. vs. Harwich restates principles which have long been recognized and which support this view.

Upon the whole of the evidence, I think I must find that the scheme proposed in the report is a sound one and would, if implemented, provide greatly improved drainage for the whole area. From the standpoint of cost, it is to be noted that the Province of Ontario will contribute a large portion of the cost. The assessments of the petitioners, for example, are about the same as they would have been called on to pay if the work involved only the construction of a drain flowing easterly to Mud Creek Municipal Drain. It may be that the appellant is standing in his own light in opposing the scheme since

there is credible evidence that his lands will have better drainage if the proposed scheme is implemented.

However, these matters of size of the area, the comparative cost of the work and the two-way flow of the drain have considerable importance in this controversy if viewed with Col. Archibald's evidence as to what this report seeks to do.

At one point in his evidence he said: "In my opinion, now is the time to improve the drainage of the whole area." It is quite clear that he was speaking of the area benefited under the report and not the area described in the petition. In my view, this was not the purpose of the petition and I am not aware of any authority which would permit an engineer to substitute his views as to what is good for an area for his instruction. In result, he has not directed his attention to the needs of the petitioning area, but to an area about four times larger.

At another point in his evidence, Co. Archibald said: "This work was laid out after conferring with the Ontario Department of Highways. There was no economic prospect of draining Highway Number 81 except in a westerly direction." With great respect I am bound to point out that the Department of Highways was not a petitioner and the lands of the Department of Highways were not mentioned in the petition.

I think the whole of the evidence points to the conclusion that the proposed work was recommended because of the desire of the engineer to improve the drainage of the whole area and his desire to provide economic drainage for Highway Number 81. It follows that, in my opinion, the size, the costs, the value of the scheme and its purpose differs so materially from the work contemplated by the petition that it bears little relationship to that petition. The relevant provisions of the Act have been changed since *McCullough vs. Caledonia*, 25 A.R., 417, was decided but the principle stated in that case that the Act does not authorize a municipality to pass a by-law for the construction of a drainage system which differs substantially in size and cost from the drain petitioned for because such a by-law is in effect based upon no petition at all, is still good law.

In this connection, it seems to me to be a necessary corollary of this principle that if a sufficiently signed petition which describes a drainage area is filed, it is not to be taken as authority to proceed with any drainage work that may seem desirable in the general area of which the petitioning area is only a part. In the case of *McDougal vs. Harwich*, the original petitioning area comprised 16 lots. The engineer's report added 2 additional lots. The report proposed that the flow should lie in the opposite direction to that proposed by the petitioners. I think it is quite clear that the facts in that case differ materially from the one at bar.

I feel that I ought to deal with the evidence of Mr. Todgham to the effect that the system proposed in the report would provide more efficient drainage for the lands of the petitioners than if a drain were constructed to flow easterly only. It must be kept in mind, in weighing this opinion, that the

Act does not contemplate that every landowner in a drainage scheme is entitled to expect perfect drainage. It does contemplate that every landowner who is assessed will secure improved drainage. The degree of improvement will always depend on the elevation of his land and the cost of the work to be undertaken. It would be possible if a drain were dug deep enough and long enough to provide drainage for all but the very lowest of lands. Often times this is not economically feasible.

For the reasons given, I have come to the conclusion that the report must be set aside and the by-law adopting it should be quashed.

The matter of who should bear the costs of these proceedings has given me some concern. I can find no basis for assessing the costs against the area named in the report. If costs were assessed against the petitioners, it would be most unjust because they are innocent of any acts which would justify the imposition of costs against them. I have come to the conclusion that the plaintiff and the Township of Adelaide should each be allowed their costs on the Supreme Court Scale and that these costs, including the costs of the Court Reporter, should be paid by the Township of East Williams, out of the general fund.

DATED THIS 31ST DAY OF MAY, 1966.

SIGNED "S. L. CLUNIS"