

property adjacent to them, they may get into such a condition as to be a public danger because they are not properly formed, drained, paved, or otherwise made good. Then there are two alternative methods provided by this Division of removing that danger. One is under sec. 526. The council may do the work and may require the owners of premises which front, adjoin or abut upon those pieces of land to pay for doing it. For a moment I pass over the intermediate sections and point to alternative methods. That is provided by secs. 537 and 538. Sec. 537 provides that if any street, lane, &c., 33 feet wide at least is once formed, levelled, &c., or made good and has been dedicated to the public, then it shall thenceforth be under the care and management of the council, "and such owners shall cease to be under the liability imposed by this Division with respect thereto." Sec. 538 provides as to streets, &c., less than 33 feet wide or not dedicated to the public, that the council may repair them, &c., at the expense of the owners of the premises fronting, adjoining or abutting. So that the owners of land, according to its nature, have two methods of meeting their liability. We are only concerned with the first, and I only mention the second because it throws light upon the first. In sec. 526 the description of owners of premises fronting, adjoining or abutting on a street, though it indicates the persons upon whom this liability may justly be cast, is not a complete description. Sec. 527 enables the council to prepare specifications, plans, &c., and an estimate of the cost and a scheme of distribution setting forth the names of "the persons intended to be made liable." The persons whose names are to be set forth are to be "the owners." Besides them other persons may be interested in or affected by the work, and they, by sub-sec. 2, have power to inspect the specifications, plans, &c., and the estimate. It is contended that the words "persons intended to be made liable" may be wider than "owners."

But then comes sec. 528, which is almost a proviso upon sec. 526, and by sub-sec. 1 of it the legislature in effect say: "Although we have just used very large words in sec. 526 to indicate the persons who are to be liable for the cost of the works it must be remembered that, in the first place, only such of those persons we have mentioned as have the right to use the street or com-

H. C. OF A.
1914.

MOORABBIN
SHIRE
v.
ABBOTT.
Isaacs J.