liable to such assessment, the matter having been concluded by the confirmation of the by-law. A municipality constructing a drain, cannot let water loose just inside or anywhere within an adjoining municipality, without being liable for injury to lands in such adjoining municipality thereby; where a scheme for drainage works proves defective, and the work has not been skilfully and properly performed, a proper route not chosen and it is not continued to a proper outlet, and is left unfinished for a long time in an adjoining municipality, where it is carried to find an outlet, so that the water is turned loose, and comes upon land therein. The municipality constructing it is not liable to persons whose lands are damaged in consequence of such defects and improper construction, as *tort feasors*, but are liable under section 591 of the Municipal Act, for damage done in the construction of the work or consequent thereon. The referee has no jurisdiction to adjudicate as to the propriety of the route selected by the engineer, and adopted by by-law. The only remedy, if any, being by appeal against the project proposed by the by-law. A tenant of land may recover damages suffered during his occupation from construction of drainage work, his rights resting upon the same foundation as those of a freeholder.

IN RE JENKINS AND TOWNSHIP OF ENNISKILLEN.

A township council, finding that a government drain in the township did not carry off the water, by reason of the natural flow being in another direction, accepted a report made by their engineer, and passed a by-law adopting a scheme for a new drain leading from the middle of the government drain into an adjoining township, where it was to find an outlet. It was held that the proposed drain properly came within the description of a new outlet although not at the end of the government drain, and although the former outlet remained to serve to carry off a part of the water, and so long as the proposed drain was designed merely as an outlet for the water from the government drain, it might under section 585 of the Municipal Act of 1892, be provided for without any petition under section 569, even although it should incidentally benefit the locality through which it should run, nothing being included in the plan beyond what was reasonably requisite for the purpose intended—although a township council is not powerless with regard to the drainage report of their engineer, it is contrary to the spirit and meaning of the act—that two adjoining councils should agree upon a drainage scheme and upon the proportion of the cost to be borne by each, and that the engineer of one of them should be instructed to make a report for carrying out the scheme, and charging each municipality with the sums agreed on; for that would interfere with the independent judgment of the engineer and pledge each township in advance not to appeal against the share of the cost imposed upon it, to the possible detriment of the property owners assessed for the portions of that share, and where such a course was pursued, a by-law of one of the councils, adopting the engineer's report was quashed. In describing the lands for assessment the north-east part even with the addition of the acreage, is an ambiguous description, and it is a question as to the effect upon the validity of the by-law.

CHRISTIE VS. CORPORATION OF TORONTO.

Section 124 of the Consolidated Assessment Act 55 Vcel., e. 48, (o) only authorizes a distress for non-payment of taxes, of the goods of the person who ought to pay the same, or of any goods in his possession etc., or if any goods found on the premises, the property of or in the possession of any other occupant of the premises which were not the goods and chattels of the person who ought to pay the taxes or of any occupant thereof.

Rules of Order and Conduct of Members of Councils.

CRABB VS. MOUNT FOREST.

This was a decision given by Judge Chadwick at Guelph upon a motion for an interim injunction applied for by Mr. Crabb, a member of the council of Mount Forest, to prevent interference with his right to be present at the meetings of that body from which he had been excluded under one of the rules governing said council, which reads: "The mayor or chairman may order and cause any members of the council using indecorous language or personalities, or who may refuse to obey the orders of the mayor or chairman when called to order, or who in any way may offend against, transgress or break any of the rules and regulations herein contained, regulating the conduct of members at any meeting of the council or of any committee thereof, to be removed by the chief of police or any other constable from the council chamber or place of such meetings, and such member shall not be entitled to again take his seat at such council or committee meeting until he shall have apologized for his conduct to the council or committee, or shall have withdrawn his indecorous or personal remarks." It appears that at a meeting of Mount Forest council held the first week in October last, plaintiff spoke of certain members as "such characters." The mayor, on the point of order, considered such language a violation of the rule above quoted and demanded an apology. Mr. Crabb refused to apologize or retract these words, and he was removed by order of the mayor. At a later meeting on the 15th, the subject was again brought up and the plaintiff again excluded from the council's deliberations. Hence the action —and on its hearing, Judge Chadwick, after quoting cases and precedents, said that municipal assemblies have no power, in the absence of express grant, to remove a member for contempt, unless he is actually obstructing the business of the house. The judge held that the by-law enacting the rule was in excess of any authority, and contended that section 283 of the Municipal Act was the only one under which it can be claimed, and this did not give power to exclude from session of council.

The council appealed from the judge's decision, and the final result will be looked for with interest.

Dr. Bourinot, in his work on Procedure of Public Meetings, quotes a rule of the Toronto city council, which provides

"That no member shall resist the rules of the council or disobey the decision of the mayor on questions of order or practice, or upon the interpretation of the rules of the council; and in case any member shall so resist or disobey, he may be ordered by the council to leave his seat for that meeting, and in case of refusal he may be removed by the police, but in case of ample apology being made by the offender, he may by vote of the council be permitted forthwith to take his seat."

The same authority states, in reference to the rules of other councils,

"That although they do not provide in express words for the removal of a troublesome member, it is a power inherent in all such bodies for the preservation of orderly proceedings and the transaction of business."

It would appear from the above that the action of the Mount Forest council in excluding a member for cause was quite within their power at the first meeting, but unless the member gave cause for similar action at the next meeting, he would be entitled to retain his seat. The right to exercise the power to exclude should only exist when necessary for the preservation of orderly proceedings and the transaction of business.

STUDD VS. CITY OF TORONTO.

This was a motion to set aside the verdict and judgment for the defendants in an action under Lord Campbell's act tried before Ferguson, J., and a jury at Toronto and for a new trial. The plaintiff's husband lost his life owing to an accident on Church street, in the city of Toronto, when a new pavement was being laid. The deceased, who was a pedlar, pushed his hand-cart into a hole at the corner of Queen street, and fell and sustained the injuries from which he died. Evidence of Mr. Coatsworth, the defendants' commissioner, was given without objection at the trial, of a statement made by the deceased, to the effect that he knew of the hole and concluded he could push his cart over it, but made a miscalculation. The jury found that the deceased could have avoided the accident by the exercise of reasonable care. The plaintiff contended that the evidence should not have been admitted, and that there was misdirection. The court held that the evidence was properly admitted, and that it was impossible to interfere with the finding of the jury. Motion dismissed with costs.