

guarantee the due payment of the debentures," etc.; (2) that upon each debenture should be written "payment hereof guaranteed by the corporation of the county," etc.; (3) that the warden and clerk should sign and seal such guaranty on each debenture; (4) that when so signed the corporation should be liable to the holders of the debentures and responsible for the due payment thereof:—

*Held*, that the by-law did not impose upon the county corporation any greater liability than that of guarantors. *Re Kerr and County of Lambton*, 334.

8. *Drainage By-law—Engineer's Report—Erroneous Basis of Fact.*—A township by-law for repairing and deepening a drain extending through three municipalities set out the report of the engineer recommending the work and assessing the cost in different proportions against them, respectively, but he based his report upon the assumption that the drain had been originally constructed as one drain whereas it consisted of at least two drains built at different times and for different purposes:—

*Held*, that the by-law must be quashed, for the persons affected were on being assessed entitled to have the engineer's judgment upon the true state of facts, as was also the council when acting on his report. *In re Stonehouse and The Corporation of the Township of Plymouth*, 541.

9. *Licenses—Petty Chapman—Ultra Vires—Damages.*—A municipal corporation, whose existence is derived solely from the statute creating it, is not liable for damages arising out of the enforcement of a by-law passed under misconstruction of its powers, unless such liability is

expressly or impliedly imposed by statute.

A city corporation acting in excess of its powers passed a by-law amending an existing by-law for licensing peddlars, prohibiting them from peddling on certain streets, and the officers of the corporation in carrying out the by-law declined to issue licenses except in the restricted form, which the plaintiff refused to accept, and while attempting to peddle without a license, he was interfered with by the police, over whom the corporation had no control:—

*Held*, that the corporation were not liable therefor.

Nor does any liability arise where a licensee, who takes out a license under such a by-law, in the restricted form, is damaged by being prevented by the police from peddling on prohibited streets. *Pocock v. The Corporation of the City of Toronto*, 635; *Ferrier v. The Corporation of the City of Toronto*, 635.

10. *Negligence—Way—Opening—Invitation—Accident—Land Adjoining Highway.*—Where the plaintiff, instead of taking the way provided for access to and from his premises, left it, and proceeded to his destination upon a track belonging to the defendants, which, to his knowledge, was not a street or way completed for use or opened for public travel, no invitation or inducement being held out by the defendants to the public to travel upon it, and on which he, owing to irregularities on its surface, fell and was injured:—

*Held*, that he could not recover damages for his injury:—

*Held*, also, that he could not recover upon the alternative allegation that he was obliged to leave the highway, because it was in a