

WAREHOUSEMAN.*See* BAILMENT.**WARRANT.***See* DAMAGES—TRESPASS.**WATERS AND WATERCOURSES.**

Ditches and Watercourses Act—Award—Affirmance by County Judge—Jurisdiction of Engineer of Municipal Corporation—Determination by Court—Requisition—Assent of Majority of Owners—Notice—"Owner," Meaning of—Tenant at Will—Benefit from Work to be done under Award—Notice of Letting Work—Time.—1. Where the engineer of a municipal corporation purports to make an award under the Ditches and Watercourses Act with respect to the making of a drain, the affirmance of such award by the County Court Judge does not preclude the High Court from entertaining the objection that the engineer had no jurisdiction to make the award; nor is such an objection one for the determination of the County Court Judge alone.

Murray v. Dawson, 17 C. P. 588, distinguished.

2. In the absence of a resolution of the municipal council such as is provided for by sec. 6 (b) of the Ditches and Watercourses Act, R. S. O. ch. 220, the question whether the engineer has jurisdiction to make an award depends upon whether, before filing the requisition, the owner filing it has obtained the assent in writing of a majority of the owners affected or interested, as provided by sec. 6 (a); if he has obtained such assent, the engineer is

immediately upon such filing clothed with jurisdiction; and the absence of the notice (Form D.) required by sec. 6, would not deprive him of such jurisdiction, but would form only a ground of appeal against his award.

3. The assent of the municipal corporation as one of the land-owners interested may be shown by resolutions passed by the council directing the engineer to proceed with the work.

4. The term "owner" as used in the Act means the assessed owner; and a tenant at will may be an owner affected or interested within the meaning of the Act.

5. The decision of the County Court Judge as to matters over which the engineer has jurisdiction cannot be reviewed by the Court; and whether the plaintiffs were benefited by the proposed work was a matter to be determined by the engineer and the subject of appeal to the County Court Judge.

6. The mere publication by the engineer, within a year after the affirmance of an award, of a notice that he would let the work to be done upon the land of one of the persons affected by the award, and that such letting would take place after the expiry of a year from such affirmance, does not afford any ground for an action of trespass. *York et al. v. Township of Osgoode et al.*, 12.

See NEGLIGENCE, 2.

WAY.

See MASTER AND SERVANT, 1.

WILL.

1. *Construction—Condition Precedent—Condition Subsequent—*