

STREET, J.]

[July 21.]

IN RE JENKINS AND TOWNSHIP OF ENNISKILLEN.

*Drainage—New outlet—Municipal Act, 1892, ss. 569, 585—Petition—Township by-law—Adjoining townships—Agreement as to proportion of costs—Report of engineer—Description of lands.*

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.

*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 s. 585 of the Municipal Act of 1892, be provided for without any petition under s. 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 its 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 northeast part," even with the addition of the acreage, is an ambiguous description; and, *quare*, as to the effect upon the validity of the by-law.

*Aylesworth, Q.C., and Shaunessy for the motion.*

*McCarthy, Q.C., and Moncrieff, Q.C., contra.*

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ARMOUR, C.J.]

[Aug. 29.]

RE DOMINION PROVIDENT, BENEVOLENT, AND ENDOWMENT ASSOCIATION.

*Local legislature—Powers of—Insurance—Powers of Master—Creditors' schedules—Contributories' schedules.*

The Local Legislature has power to confer upon the Master the powers conferred by The Insurance Corporations Act of 1892.

The Master has power to settle schedules of creditors, and that implies power to adjudicate upon the claims of creditors to ascertain whether they