there was no power to appropriate to this question, money which had been previously otherwise appropriated. Rose J. held that the resolutions were illegal as for an expenditure without the means of meeting it. Order made quashing resolutions with costs

BRYCE VS. LOUTITT AND THE TOWNSHIPS OF CULROSS AND TURNBERRY.

Judgment on appeal by the defendants from the report of Jones, Co. J. of Huron, and on motion by the plaintiff for judgment on the report. The action was brought against the defendant Loutitt for damages arising from the action of the defendant in removing certain stones which had been placed by way of a gangway leading from the southern boundary of his lot to the mouth of a culvert made by the townships of Culross and Turnberry. The plaintiff is the owner of lot 18 in the 12th concession of Turnberry, and the defendant Loutitt is the owner of lot 18 in the 1st concession of Culross. The road in question, across which the culvert is constructed, is the town line between the townships. The referee found damages against all the defendants. The learned chief justice is of opinion that the injury of which the plaintiff complains is occasioned not from any defect in the culvert, but by reason of the water which had accumulated on the defendant Loutitt's property rushing through the culvert at a greater rate than would have been the case had the approaches to the culvert been properly made. He is further of opinion that the injury complained of arose as much from the negligence of the plaintiff as from the action of the defendant. Appeal of the defendants allowed, and action dismissed, with costs to the defendants the townships, and without costs to the defendant Loutitt.

RE CHARLAND AND TOWN OF WINDSOR.

Judgment on motion by the corporation of the town of Windsor to set aside the award made between one John Charland and the applicants by John C. Iler and Alanson Elliott, two of the arbitrators, with respect to the compensation to be paid to Charland for damages sustained by him by reason of his interest in certain land being injuriously affected by lowering of the grade on Chatham street in the town of Windsor. The arbitrators awarded $400. The learned judge finds evidence upon which to sustain the award of $400, as the mere cost of putting the property in as good condition as it was in before the work was done, and therefore he cannot assume that the arbitrators made any allowance for loss of business profits. He also finds that it does not appear that any allowance was made to the city by the arbitrators for the advantage which the claimant derived from the work, but on the other hand that there was evidence that the benefit would be about equal to the additional taxation. He does not see his way to interfering with the amount of the award, but he holds that the city corporation are entitled to be protected against the alleged state of Charland's title. Appeal dismissed but corporation to pay the $400 into court, in pursuance of 53 Vic., chap. 50, sec. 17. No costs.

WILLIAMS VS. TOWNSHIP OF RALEIGH.

This is a case which was recently decided by the supreme court of Canada. Certain lands in the township of Raleigh were drained by what were called the Raleigh plains drain and government drain No. 1. The ratepayers petitioned for further drainage under the Municipal Act, (R. S. O., 1887, chap. 184), and a surveyor was directed under sec. 569 of the act, to examine locality, make plans and report as to how the the drainage could be effected. In pursuance of his report the municipality caused a number of drains to be constructed leading into the Raleigh drain and government drain No. 1, with the result that the additional volume of water proved too great for the capacity of the latter which overflowed and flooded the adjoining lands of C., who brought an action for the damage thereby. The matter was referred to a county court judge, who reported the facts in favor of C., and against the contention of the municipality, and estimated the damage at $850. The divisional court affirmed this finding and also ordered the issuing of a mandamus, under sec. 583 of the act. The court of appeal reversed this decision, holding that the only remedy for damage to C's land was by arbitration, under the statute, and that he was not entitled to a mandamus. The supreme court reversed the judgment of the court of appeal, and held that the right infringed by the municipality being a common law right and not one created by statute. C. was not deprived of his right of action by sec. 483 of the act, which provides for determination by arbitration of a claim for compensation for lands injuriously affected by the exercise of municipal powers. It was further held that the municipal council had a discretion to exercise in regard to the adoption, rejection or modification of the report of a surveyor appointed under sec. 569 to examine the locality and make plans, etc., and, if the report is adopted, the council is liable for the consequences following from any defect therein. It was also held that the council by the manner in which the drainage work was executed was guilty of a breach of the duty imposed on it by sec. 583 of the act to preserve, maintain and keep in repair such work after its construction. The work having been constructed under sec. 573 of the Act, C was not entitled to a mandamus under that section to compel the municipality to make the necessary repairs, to preserve and maintain the same, the notice required by that section not having been given. If the work had been done under sec. 586 notice would not have been necessary. It was also held that though sec. 583 makes notice a necessary preliminary to the liability of the municipality to pecuniary damage suffered by a person whose land is injuriously affected by neglect or refusal to repair, the want of such notice did not divest C. of his right of action, nor affect the damage awarded to him.

The Drainage Law.

A very strange state of affairs in drainage matters is likely to result from the decision of the supreme court in the case of Williams vs. Raleigh. *The court held that the drainage clauses of the Municipal Act are permissive only, not imperative; that in order to enable the defendants to escape liability for the damage caused by the flooding, it was incumbent upon them to show, first, that the doing of the work in question was ordered by the legislature, that is, that it was imperative upon them to build the drains, and, second, that the same could not have been built without causing the damage complained of.* It would appear that the first ground stated in the judgment aims at the very root of the drainage provisions of the Municipal Act, and if an order of the local legislature has to be obtained for every drain that is constructed, the drains that have been constructed up to the present time are all improperly and illegally made. This seems to be a very extreme view to take of the power conveyed by the word "may" in section 569, which no doubt, was intended to, and in the judgment of the judges, except those of the supreme court, did confer upon township councils the power of constructing a drain, as soon as they came to the conclusion that a majority of the persons benefitted had petitioned therefor. This judgment may be appealed to the privy council, but, in any event, the legislature will be called upon next session to pass remedial legislation, legalizing all drains heretofore constructed and distinctly conferring power upon the municipal councils to act without the direct interposition of the legislature in every particular case. The drainage commission have pretty well concluded their labors, with the exception of Essex county, their report will contain all necessary legislation drafted ready for submission to the house at its session next winter.—*Amherstburg Echo.*

Judge Rose is keeping up his reputation for expressing his opinion of the court houses and gaols of Ontario. Last week, at Sarnia, the judge complained of the inadequacy and unsuitability of the court-room, and hoped that before long, action would be taken to remedy the unsatisfactory condition of the place.

It is observed by *The Baltimore American* that "there is not much real happiness in holding an office, but there is a heap of satisfaction."