

assignee the benefit to which the debtor is entitled in the fund of a society properly incorporated under that Act.

F. E. Hodgins for Unitt.

E. D. Armour, Q.C., and *Abbott* for Prot. t.

SAGE v. TOWNSHIP OF WEST OXFORD.

Reference—Drainage Trials Act, 1891, ss. 9-11—Action for damages for not providing sufficient outlet—Jurisdiction to refer compulsorily—Drainage referee—"Construction"—"Operation."

In an action against a township corporation for damages for flooding the plaintiffs' lands, they alleged that the defendants, in executing certain work and making certain drains under the drainage clauses of the Municipal Act, had brought water down upon the lands without providing any sufficient outlet for it.

Held, that the damages complained of arose, if not from the "construction," at all events from the "operation" of the drainage works of the defendants; and therefore the court, or a judge, had jurisdiction under s. 11 of the Drainage Trials Act, 1891, to compulsorily refer it to the referee appointed under that Act.

Sen ., there was no jurisdiction to refer this case under s. 9 of the Act; for according to the construction placed by the Supreme Court of Canada upon s. 9 of the Municipal Act, which is in the same words as s. 9, the damages complained of did not arise from the construction of the drain within the meaning of s. 9.

Williams v. Township of Raleigh, 28 C.L.J. 471, considered.

Aylesworth, Q.C., and *J. B. Jackson* for the plaintiffs.

M. Wilson, Q.C., for the defendants.

MCLEAN v. CITY OF ST. THOMAS.

Deed—Construction of—Municipal corporation—Conveyance of land to, for waterworks purposes—Power of corporation to sell land—R.S.O., c. 192, s. 29—Conditions in deed—Right of way—Construction of grant.

A deed of conveyance of land, under the Short Forms Act, from the plaintiff to the defendants, recited that the defendants had determined to construct waterworks in their municipality, and for that required the land for buildings and other purposes connected with the waterworks, and the plaintiff had agreed to sell them such lands for such purposes for the consideration and subject to the conditions set forth. The consideration was a valuable one. The grant was to the defendants and their assigns forever, for the purposes mentioned in the recital, of the land described, with full right of ingress and egress to and from the said lands for the defendants, their employees, and others doing business on and about the said waterworks, with teams and otherwise, from New Street northerly along the road now used by the plaintiff west of his orchard, etc.; *habendum* to the defendants, their successors and assigns, for the purposes aforesaid, to and