

in artificial channels upon their streets and highways mere surface water, distributed in rain and snow over large districts and precipitate it upon the premises of private owners (p. 531.)

Nor does the Municipal Act in giving municipalities, in a proper case, power to pass by-laws in relation to the disposal of surface water, so enlarge the power of defendants as to justify them in the course they here adopted.

It is of importance to bear in mind that defendants' scheme does not end with collecting and carrying the surface water onto the adjoining owner's lands, but provides for carrying it through that land in order that it may reach the land of the plaintiffs. But it is said that at a meeting in July, 1912, in Galt, plaintiffs consented to the building of this sewer; I do not find that to be the case. Even had their consent been then given it was founded on the proposal by defendants that a settling tank would be installed near the outlet of the sewer in which the water flowing from the sewer would be treated by sedimentation. This was a proposal made by the Provincial Health Inspector who in his evidence says that he contemplated a proper basin for that purpose being installed. The basin designed by defendants would not be sufficient to produce the proposed results. The evidence establishes that efficient sedimentation would not have the effect of removing elements which would cause pollution to the water. Fuce, a civil engineer, called for the defence, and who had to do with the designing of defendants' proposed scheme, gave it as his opinion that that method of treatment—that is, the use of a settling tank—is a proper one, and that if it were adopted the pollution would be slight, if any; but on cross-examination he admitted that in making that statement he had no data to go upon. He had never seen surface water treated for its purification; he had no experience in that direction, and could not estimate the extent of the pollution if the proposed drain were put into use. The problem of disposing of the water from this area was one which involved no little difficulty for defendants, having regard to the economy which they thought it necessary to observe. Other schemes for accomplishing their purpose were suggested, all of which necessitated larger expenditure. In designing an acceptable scheme the engineers had regard to the cost. Fuce says the scheme he worked on was a compromise between efficiency and economy.