

filtration, the surface water is purified; while, on the other hand, by the use of the sewer all this water would be carried directly and quickly to the creek, bringing with it substantially all its objectionable and dangerous elements except such as would be arrested and retained in proposed catch basins at the inlets to the sewer. I find on the evidence that much of the objectionable matter would not be arrested or disposed of by these catch basins, and that notwithstanding their use the flow into the creek would pollute it, unless some efficient means, not included in defendants' proposed scheme, were adopted of overcoming that objectionable feature.

Another position taken by defendants is that the waters of the creek are, under present conditions, polluted by the use of the adjoining lands for pasturing of cattle, and by the natural flow from farm buildings and barnyards nearby. It is possible, and indeed very probable, that pollution to some extent arises from these causes, but the evidence shews that the water is now clear and fairly pure. Mr. Murray, an expert witness called for plaintiffs, says the use of this sewer will increase the pollution of the creek and absolutely spoil it. Campbell, a civil engineer called for defendants, says the use of the sewer will much increase the flow of the stream. In a word, the evidence makes it quite clear that to adopt the expedient of collecting the surface water from the area it is intended to serve, and carrying through this sewer to and into the creek will cause a serious pollution of the waters, as well as unreasonably add to the flow of the creek, and there is nothing to justify defendants in their contention that plaintiffs are not entitled to object or insist that they would be subject to the damaging conditions which the building or operation of the sewer or drain would impose on them. One proprietor of land has no right to cause a flow of the surface water from his own land over that of his neighbour, by collecting it into drains or culverts or artificial channels. (Angell on Watercourses, 7th ed. 133.)

An owner of land has no right to rid his land of surface water, or superficially percolating water, by collecting it in artificial channels and discharging it through or upon the land of an adjoining proprietor; and a municipal corporation has no greater right in this respect than a private landowner. (Gould on Waters, 2nd ed., 529-530.) Cities and towns have no greater right than individuals to collect