

ing like the smell of a cow's breath." His wife's account is that the smell affected her eyes, nose, and throat, and that they were almost suffocated at night. This refers to 1912, and it does not appear that such a state of things existed when action was taken in August, 1913. Other witnesses speak of the smell in curiously diverse ways, but this line of evidence as a whole only goes to shew a general cause of complaint, with no particular danger to any individual.

The plaintiff had no trees or shrubs and grew nothing on his place. Owners of other lots spoke of trees and bushes dying and dwindling; but proof is lacking as to the real cause in these instances. It may be that the cause is attributable to the vapour or powder discharged from the smelter, but some affirmative proof by testing or otherwise should have been given. Other witnesses are called for the defence—and some of them living closer to the smelter than the plaintiff—who say that their vegetables, bushes, and fruit trees have sustained no injury whatever. One cow was seen grazing near-by, and there is no complaint as to animals suffering this year.

The plaintiff's wife also complains that she washed her face once last year in rain-water that was gathered in a barrel from the roof, where the dust is said to have drifted with the wind, and that her face became blotched and pimpled. The sediment in the barrel was afterwards analysed and found to contain about one grain of arsenic to about 44 gallons of water. Dr. Rogers (called for the plaintiff) was unable to say what would be the affect of this kind of water on the human body.

The evidence took a very wide range, but was lacking in pointed application as to the precise nature of the dust deposited and as to the precise nature and origin of the smells, *i.e.*, whether from arsenic or from some combustible used in the process; but the general impression left on my mind was that, if the situation continued as it was in 1912 in the working of the smelter, there would be a sufficient case made for an injunction; but the matter should be brought before the Court at the instance of the Attorney-General as for a public nuisance. The area said to be injuriously affected is all around the neighbourhood of the smelter in the town of Orillia, and if the smelter is carelessly handled or gets out of good repair, so that noxious fumes or vapours are sent forth, the health and comfort and conditions of life as to animal and