

**SIR WILLIAM MULOCK, C.J., says (Continued)**

According to the evidence of Mr. Hatton, Civil Engineer, one of the defendant's witnesses, it is probable that by a comparatively inexpensive treatment the gases can be rendered harmless. Mr. Hatton has for years made a special study of the treatment of sewage, and he impressed me as a most fair-minded and capable engineer; I attach great weight to his opinion.

It is not for the Court to direct what steps the defendants should take to abate the nuisance, but I think they would be well advised if they acted upon his advice.

I find that the operation of the plant since its inception has so polluted the atmosphere with foul and offensive odors, arising from fecal matter, as to create a nuisance, especially injurious to the plaintiffs.

As to Fieldhouse, he was, and still is the owner of two brick stores which he rents for business purposes. The odors in question have injured the rental value of the property and in consequence he has been unable to realize therefrom as much, but for the nuisance complained of, as he would have been able to obtain. I have not the evidence before me in sufficient detail to enable me to determine the exact extent of his loss, but it amounts, I think, to at least \$600.00 up to the present time, and I award him damages to that extent; but if either party is dissatisfied with that amount, he may have a reference, the costs thereof to be in the discretion of the Master.

The plaintiff Fazackerley owns a store in which he resided and carried on business, but the odors injured his business and made his wife ill, and she was unable to withstand the injurious effects of the odors. In consequence he was compelled to remove elsewhere.

The plaintiff Martin owned a house within two or three hundred yards of the disposal beds, and his wife also became ill because of the odors, and he also was obliged to move elsewhere. Further, the odors made it difficult for him to keep his house rented, and in consequence at times it remained vacant and at others was let at reduced rates.

No evidence as to the extent of the pecuniary loss of the plaintiffs Fazackerley and Martin was given, and therefore I am unable to award them pecuniary damages, but I find that the odors were so injurious as to interfere with the reasonable enjoyment of their properties.

For these reasons, my judgment is that the defendants should be restrained by injunction from so operating their plant as to cause a nuisance to the plaintiffs; that they pay to the plaintiff Fieldhouse \$600 damages or such sum, if any, as shall be awarded by the Master in the event of a reference, and such costs as the Master in his discretion may give; the defendants to have until the 1st of May, 1918, next in which to abate the nuisance with leave to them from time to time to apply for further extensions of time; the plaintiff Fieldhouse to be entitled to a reference from time to time for any further damages he may sustain during the continuance of the nuisance; costs of such reference to be in the discretion of the Master. The defendants to pay to the plaintiffs the costs of this action.