

\$244.76, with interest from the 10th of January 1914, and the costs", etc.

*Mr. Justice Guerin.* The plaintiff is a grocer; during nineteen years he carried on business at the corner of St. Denis and Ontario Streets in the City of Montreal; he moved from there in January 1912. On the 28th of August 1911, the cellar under his store was flooded, and his stock was damaged to the extent of \$244.76.

This flooding was no novel experience for him, but was constant and intermittent three or four times every summer during many years. It was caused by the water of the Ontario Street sewer which entered through the drains of his cellar.

His cellar was divided into two parts, one of which was  $3\frac{1}{2}$  feet lower than the other. He was in the habit of storing his stock on an elevation above the ground floor, but on the 28th of August 1911, the intruding water upset the cases on which his merchandise had been piled and caused him the damage of which he complains.

Professor Clement H. McLeod of McGill University, who is also the Superintendant of the Meteorological Observatory tells us that on the 28th of August 1911, there was a rain fall of 1.45 inches, and that about two o'clock that afternoon, the intensity of the rain fall was about three inches per hour; such a rain fall he describes as exceptionally heavy. The following question put by counsel and the answer given by the professor, show the conditions which confront the City of Montreal every year;

*Question:* "An intensity of 3 inches per hour happens often every summer, does it not?"

*Answer:* "There are perhaps 3 or 4 occasions in the "summer when it is as great 3 inches per hour".