

constructing, maintaining, improving, repairing, widening, altering, diverting, and stopping up drains, sewers, or water-courses; providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; making all necessary connections therewith, and acquiring land in or adjacent to the municipality for any such purposes."

The land of the appellant, i.e., the soil in which its pipes were laid, was injuriously affected by the exercise of the power of the respondent or its council in the construction of the sewer, the laying of which necessitated the removal of the pipes, and the appellant was entitled to compensation for the damage necessarily resulting from the exercise of that power, and it follows that the appellant cannot be required to repay to the respondent the expense incurred in taking up and relaying the pipes.

The appeal should be allowed with costs and the judgment appealed from reversed; and, in lieu of it, judgment should be entered dismissing the action with costs.

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SEPTEMBER 21ST, 1914.

\*ROBINSON v. VILLAGE OF HAVELOCK.

*Negligence—Children Killed in Sand-pit Owned by Municipal Corporation—Nuisance—Cause of Death—Duty of Corporation—Absence of Knowledge of Children's Resort to Sand-pit—Liability—Findings of Jury—Evidence—Appeal.*

Appeal by the Corporation of the Village of Havelock, the defendant, from the judgment of KELLY, J., 6 O.W.N. 90, in favour of the plaintiff, upon the findings of a jury, in an action, under the Fatal Accidents Act, to recover damages for the death of the plaintiff's three children, caused by falling sand and earth in a sand-pit on the defendant corporation's property, where the children were playing.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

F. D. Kerr, for the appellant corporation.

D. O'Connell, for the plaintiff, the respondent.

\*To be reported in the Ontario Law Reports.