

The objections of the city are manifold. That as to the effect of the proclamation need not further be considered. But it is claimed that such a trunk sewer could not be permitted, even if the connection of a separate house from time to time must be. I can find no such limitation in the proclamation. It probably would not be contended that a drain or sewer, not being a drain or sewer of an inhabitant of the township, could be connected with the city sewer; but where a drain or sewer is built by a resident of the township, in good faith, for the benefit of his own property, whether to make it more saleable or otherwise, it seems to me the right exists to connect such a drain. It can, I think, make no difference that the sewage comes first into a large drain before it empties into the city sewer, or not. I think the judgment sufficiently expresses this; but, if not, it may be amended.

Then the defendants say that the sewer in Sherman avenue was built for the part of the city in the immediate neighbourhood; and that, if the plaintiff and others be allowed to connect their drains with this sewer, there will not be sufficient capacity left for the drainage of that part of the city intended to be provided for. Again, the proclamation must be looked at. I can find no such consideration in that document. "The residents of Barton . . . have the right to make connection with city sewers" at this point, "it being understood that no sewer already built within the city limits shall have its capacity overtaxed by such connection." "Shall have" contemplates something in the future; and the clear meaning is that connections are to be permitted unless and until a connection sought would, if allowed, overtax the drain. If this term did not recommend itself to the city council, they should not have agreed to it, and then the power of the Lieutenant-Governor could not have forced the obnoxious term upon them. As the term stands, would it not be absurd to say that the Barton people must wait to see if the Hamilton precinct will not be built up so as to require all the sewer? There may be a very great increase in population at that point, but in the meantime what are the residents of Barton to do? The sewer not now being so much used that the sewer built by Barnes would cause it to be overtaxed, Barnes has a clear right to have it connected. If the growing population of the city necessitates a larger sewer, a new sewer may have to be built, but that is so with the other parts of the city.