

# MUNICIPAL DEPARTMENT

## LEGAL DECISIONS AFFECTING MUNICIPALITIES.

**HADLEY VS. TOWN OF ST. PAUL.**—The plaintiff complained that the municipality had constructed drains in certain lots belonging to him, and asked for their removal. The plea was to the effect that defendant followed the indications given by the plaintiff himself, who had laid out the street and planted pickets from one end to the other. The court maintained the action in part, and condemned the defendant to demolish and take away from the plaintiff's lots the part of the drain which is now constructed in them, within six months from date of judgment, unless the defendant prefers to pay the plaintiff the sum of \$678.07, value of 11,965 feet of which plaintiff is deprived by the defendant's works.

**SINCLAIR VS. CITY OF HAMILTON.**—This case came before the Trial Court at Toronto. Judgment in action tried at Hamilton brought to recover damages for injuries sustained by plaintiff, who, while walking in a southerly direction on the side-walk on the west side of McNab street, stumbled over a hose which was being used by defendants to flush a sewer on premises adjoining the street. Held, that the work, being done by defendants, was convenient and necessary, that they had a right, as well as a duty to do it, and that it had not been shown that such duty could have been discharged in any other way than by placing the hose across the sidewalk. The time of doing the work—the morning—was also a convenient one, and under the circumstances it was not the duty of defendants to keep a man at the hose to call the attention of it to persons passing. Refer to *Atkins vs. Hamilton*, 24 A.R.; at p. 391, and *Keachie vs. City of Toronto*, 22, A.R., 371. Action dismissed with costs.

**THOMAS BRENNAN VS. TOWN OF ST. LOUIS.**—In this case, tried before the Superior Court in Montreal, judgment was delivered as follows: This is an action for damages for the flooding of a cellar. Plaintiff alleges that he is the proprietor of a house on the corner of Bernard and Waverly streets in the town of St. Louis; that in the spring of 1899 said property was repeatedly flooded in consequence of the fault of the defendant in not providing drains of sufficient capacity to carry off the water, and in not providing a gully at said corner to receive the surface water; and plaintiff claims damages in the sum of \$1,159. The defendant pleads non-responsibility; that the drains had been made in said Bernard and Waverly streets

at a time when they were not built at all, and were amply sufficient; that the plaintiff's house was built after the said drains; that neither of said streets had been graded; that as to the gullies they were supplied from time to time as they became necessary; that immediately after plaintiff's demand defendant did put a gully at the corner of said two streets; that the plaintiff's cellar was not flooded by surface water but by water under the surface. The proof shows that plaintiff's house was built after the drains were put in; that the corner where plaintiff's house is is about the lowest land in its vicinity; that when the drains were put in there were no houses in the vicinity and the plaintiff's house is still the only one in a considerable radius; that defendant did supply a gully at the corner of Bernard and Waverly streets promptly upon receipt of plaintiff's complaint; that there exists in that vicinity about 4 feet of earth over the solid rock, and that surface of the rock forms a sort of channel for the conveyance of water, which would naturally take its course towards the plaintiff's house, which is the lowest point in the neighborhood; that there is a wide sidewalk with, on one street, a strip of land 10 feet wide inside the sidewalk on two faces of the plaintiff's house; the inclination of the ground from the wall of the house is towards the street, thus throwing the water away from the house; the inundations were noticed, beginning in the month of March, at a time when the ground was still frozen, and would not permit surface water to pass through it; the damage to the house is

proved up the amount of \$25 only; costs of protest \$15, and loss of rent \$134. (This latter item is not very satisfactorily proved, as it is not certain that the building could have been let even if the cellar had not been flooded.) I am of opinion that the plaintiff has not made good his claim against the defendant.

## CONSTRUCTING INTAKES.

An unusual method of constructing intakes is described in the last annual report of Mr. Wm. Murdoch, engineer of the St. John, N. B., water and sewerage works. The city obtained control of an old earth mill dam and pond for a new source of supply. A line of 36-inch pipe 50 feet long, built of 2-inch wood staves, was put together on the ice and then sunk. The outer end is in a timber crib, the water entering through a 3 x 4 foot cast-iron grid with bars 3 inches apart on centers. The pipe is covered by gravel. After it was in place, a temporary watertight cover was placed over the grid and the shore end of the pipe built into the dam against an old sluice-gate. This gate was removed and the water in the intake drained out through the opening. Meanwhile a 7 x 10-foot gate house was constructed below the dam, and a brick culvert 3 feet in diameter built back through the dam to the gate, which had been removed, together with all its fittings. The pipe and culvert were then joined.

Mr. A. Milne, late town engineer of Alymer, Ont., has been appointed superintendent of waterworks at St. Catharines, Ont.

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