

“Considering that this flooding was caused by the water of the Ontario Street sewer, which entered through the drains of his cellar, and that this flooding was constant and intermittent three or four times every summer during years:

“Considering that it appears from the evidence of professor Clement H. McLeod of McGill University, who is also Superintendent of the University Meteorological Observatory, that on the 28th of August 1911, there was a rain fall in the City of Montreal of 1.45 inches, and that about two o'clock that afternoon the intensity of the rain fall was about three inches per hour:

“Considering that it appears by the evidence that although such a rain fall was exceptionally heavy for the City of Montreal, the same phenomenon presents itself three or four times every summer:

“Considering therefore, that such rain falls are to be expected about the same time every year, and that they are not by their nature fortuitous events which are unforeseen, and which are caused by superior force against which human prudence can devise no means of protection:

“Considering that it is in evidence that during the nineteen years of the plaintiff's occupancy of the said premises at the corner of St. Denis and Ontario Street, in the City of Montreal, he has had occasion to make claims against the city for damage to his stock by the flooding of his cellar, and that on several occasions, the defendant has settled such claims:

“Considering that the Ontario Street sewer in the City of Montreal, was completed in 1881, and that in 1911, to wit, thirty years afterwards the Sherbrooke Street sewer was constructed, and that the construction of the latter