and, in consequence, much of the sewage passed by what was called "the storm-overflow passage" into Ashbridge's bay. This passage was intended to meet emergencies, but, owing to the insufficient capacity of the overflow-pipe, the passage was obliged to receive continuously a part of the normal volume of effluent. There was also two serious breaks in the outfall-pipe, and through them large quantities of sewage, instead of passing into the lake, escaped into the bay, and there deposited much fæcal matter, from which offensive gases escaped into the atmosphere.

The defendants contended that they had statutory authority to establish and operate the plant, and that this action would not lie; also, that the plant was being operated with reasonable care in order to prevent a nuisance, and that was all the defendants were required to do.

The trial Judge found that the nuisance was traceable, largely if not entirely, to the negligence of the defendants; and that the nuisance was injurious to the plaintiffs' properties in the neighbourhood of the plant.

These findings were fully supported by the evidence.

It was clear that, while the plant was intended to provide for the disposal of 33,000,000 gallons per day, it was called upon for the disposal of 45,000,000. This caused the overflow and shortened the time allowed for settling.

The serious breakage in the outfall-pipe had continued for a long time without any attempt to repair, and in this way a steady stream of sewage, amounting to 500,000 gallons per day, found its way into the bay.

No excuse was offered for the defendants' failure to repair the break or to provide a sufficient outfall-pipe to the lake.

No by-law was passed—at least none was produced and none could be found—authorising the installation of the plant, and no approval of the plant as installed was obtained from the Board of Health.

See sec. 398 (7) of the Municipal Act, R.S.O. 1914 ch. 192, and sec. 94 (1) of the Public Health Act, R.S.O. 1914 ch. 218.

The works as now established and operated were not authorised by statute; and the defendants could not rely upon any statute as an answer to the plaintiffs' claim.

The general rule of law is, that if something done which is actionable be authorised by statute no action will lie in respect of it if it be the very thing that the Legislature has authorised: see Corporation of Raleigh v. Williams, [1893] A.C. 540; Faulkner v. City of Ottawa (1909), 41 S.C.R. 190; and other cases.

Here, the major part, if not all, of the damage, arose from