

sions of the Municipal Drainage Act, in respect of a proposed drain called the Kalbfleisch drain.

The initiating municipality was the appellant township, and the proceedings were duly served upon the other municipalities interested, namely, the City of Stratford and the Township of Downie.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

G. G. McPherson, K.C., for the appellants.

R. S. Robertson, for the Corporation of the City of Stratford.

M. Wilson, K.C., for the Corporation of the Township of Downie.

GARROW, J.A.:—Several matters were argued before us by the learned counsel who appeared for the various municipalities interested, not all of which, in my opinion, require extended consideration, especially in the view which I take of the main contention, namely, that the Waldie drain is in fact and in law a sufficient outlet for the waters proposed to be brought to it by the proposed drain, as, in my opinion, upon the evidence, it is.

Upon the minor question of the assessments for outlet liability of the lots in the city of Stratford lying to the east of Downie street, amounting in all to a few dollars, I will only say that, although the evidence is not entirely satisfactory, I would not in such a trifling matter, especially where the owners themselves are not complaining, have interfered with the report.

Upon the other or main question some examination of the facts and of the evidence is necessary.

The report of the engineer should stand, unless, upon reasonably clear and satisfactory evidence, it is shewn to be erroneous. And I am quite unable to find such evidence in the case as presented to us.

The Waldie drain was constructed in the year 1902. To that scheme the same three municipalities were all parties. It discharged its waters into what is called Erie creek, a running stream which empties into Romeo creek, and through the later reaches the river Avon in the city of Stratford.

The Waldie drain for some distance occupies what was the course of Erie creek, which is the case at the point at which it is proposed to make the outlet of the Kalbfleisch drain.

As far back as the year 1892 there was what is called an award drain, made under the provisions of the Ditches and Watercourses Act, which emptied at the same point, first, into