

Q. What did you notice about it? A. I noticed that it burned right away on my face, and I felt spots on it, although when I felt it start to burn I felt I must have made some mistake and there must be something wrong with the water, and went and got well water, but still there were sores that stayed on my face for a week later, little splotches like burns like."

In the winter of 1912-13, the defendants made some changes in their plant with a view to preventing the escape of arsenic into the atmosphere, but it is a question whether throughout the year 1913 the improvements proved effective, for the sample of water taken by Dr. Rogers out of the rain barrel in November, 1913, shewed the presence of two millegrams of arsenic in sixteen ounces.

The plaintiff gave evidence to the effect that the selling value of his property had been greatly depreciated owing to the matter complained of in this action.

From the evidence it appears that the defendants so conducted their business as to permit the escape from their premises into the atmosphere of clouds of fumes carrying arsenic which settled upon the house and grounds of the plaintiff in such quantities as to injuriously affect his and his wife's health and comfort, which destroyed or injured vegetation, and caused the death of a cow because of its grazing upon his lands; that in the month of May, 1913, and again in the month of November, 1913, rain water which had flowed from the roof of the plaintiff's house into the barrel was found to contain arsenic in such quantities that when on one occasion his wife washed her face and hands with water taken from this barrel, her face broke out into sores which did not heal for a week. And it further appears from the evidence that soil taken in the month of November, 1913, from the plaintiff's land shewed the presence of arsenic in appreciable quantities, and that in consequence of the arsenic on his property the same was greatly depreciated in value. With all deference I find myself unable to agree with the learned Chancellor that the plaintiff in respect of these matters is not entitled to maintain in his own name and for his own benefit an action for damages. It may be that the defendant's conduct in allowing these poisonous fumes to escape into the atmosphere constitute a