lawfully be granted and that, that being so, there could be no relief, either upon petition or report—in view of the fact which we have here of an intervening watercourse. Such an argument would have had some shew of virtue, and even of authority (see *Rochester* v. *Mersea,* 2 O. L. R. 435), under the old and narrower construction of sub-sec. 3 of sec. 3 of the Municipal Drainage Act by reason of the absence from it of the words "either directly or through the medium of any other drainage work or of a swale ravine or creek or watercourse," which are in sub-sec. 4. The "any means," in sub-sec. 3 did not, so it was held, include a "swale ravine, creek, or watercourse," always, it seems to me an excessively narrow construction. But if it be granted as it apparently is that the relief required could be obtained on petition the objection seems to utterly vanish. What is proposed is not the construction of a new drainage work, but merely the repair and improvement of an established system, which experience has proved is defective in that lands and roads along its course are being flooded from year to year by the overflow of waters for which that system provides no adequate or sufficient escape. Such a case seems to me to very clearly fall within the express provisions of sec. 77 of "The Municipal Drainage Act," as to "repairing upon report."

In considering such cases as *Sutherland Innes* v. *Romney,* 30 S. C. R. 495, and *Orford* v. *Howard,* 27 A. R. 223, both of which were much discussed before us, it should be remembered that this section, which is old sec. 75, was very materially amended after both these decisions, by 6 Edw. VII., ch. 37, sec. 9, so as to be made expressly to apply to the case of the better maintenance of a natural stream, creek or watercourse, which had been artificially improved by local assessment or otherwise in the same manner and to the same extent and by the same proceedings as are applicable to the better maintenance of a work wholly artificial. The effect of this amendment is very wide. It destroys at one blow the value of much that was said in *Sutherland Innes* v. *Romney,* never, in some respects an entirely satisfactory decision: see per Armour, C.J., in *Rochester* v. *Mersea* before cited at p. 436; it restores the authority of *Orford* v. *Howard* as an exposition of sub-sec. 3 and 4, which had been shaken by the *Sutherland Innes Case,* and quite apart from these, and from all the other cases decided before the amendment, it apparently gives a new and substantive right, directly applicable to the facts and circumstances which here appear.