

it will be advisable to have the Tram Co. take steps to reduce the voltage, and especially so if the pipe joints are made with wood.

Respectfully submitted.

P. R. COLPITT,  
*City Electrician*

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**New Underground Laid in Halifax by The Nova Scotia  
Telephone Co., Ltd., 1908.**

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**BRANCHES.**

On Salter St., from conduit 30 ft. east of manhole on Hollis St., branch, 1 duct, 102 ft. 8 in. east to pole on property on north side of Salter Street.

On Salter St., from conduit 34 ft. 8 in. east of manhole on Hollis St., branch, 1 duct, 264 ft. 1 in. east to pole on east side of Water Street.

On Morris St., from end of conduit 101 ft. east of manhole on Hollis St., branch, 2 ducts, 283 ft. east to pole on east side of Water Street.

From manhole at corner Blowers and Granville Streets, branch, 1 duct, 112 ft. 4 in. east to property on east side of Granville St.

On Sackville St., from main conduit 38 ft. west of manhole on Hollis St., branch, 1 duct, 13 ft. to property on south side of Sackville Street.

On Water St., from end of duct, 79 ft. east of manhole at corner of Bedford Row and George St., branch, 2 ducts, 34 ft. east to pole on east side of Water Street.

**SUMMARY.**

1,126 feet 1 inch branch conduit.

L. R. DOLAN, *Engineer.*

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**ORDINANCE NO. 7.****ELECTRIC WIRING AND THE USE OF ELECTRICITY.**

1. No electric current shall be used for illumination decoration, power or heating, except as in this ordinance provided.
2. Every person, firm or company desiring to instal wires or other apparatus for the transmission or use of an electric current for any of the purposes mentioned in the next preceding section of this ordinance, before commencing any electrical construction work of any kind whatever, either installing new electrical apparatus or repairing or altering apparatus already in use in any building on, over or under any street or any public or private property, shall file an application for a permit therefor with the city engineer, which application shall specify in detail such material and apparatus as it is desired to use with a full description of the same, giving the location of the place where such installation is proposed, by street and number, and without a permit no such work shall be done.
3. Every such application shall be examined by the city electrician, and a permit shall not be issued thereupon until he reports in writing that the same should be issued.
4. A permit shall be valid only for the time named therein.
5. The city electrician shall be notified when any work is ready for inspection, and all work must be left uncovered and convenient for examination until inspected and approved. The inspection shall be made within two working days after receipt of notice and without any unnecessary delay.
6. The owner or occupier of any building shall not use any wires, fixtures or apparatus for carrying or using electric current until such wires, fixtures or apparatus have been finally certified as correct by the city electrician.
7. No company supplying electric current shall connect its wires with wires on or in any building until a permit is obtained from the city electrician for such connection.
8. The city electrician may issue a temporary permit for the

use of electric current during the course of construction or alteration of buildings, which permit shall expire when cancelled by the city electrician.

9. The city electrician shall whenever he deems it necessary so to do, carefully inspect any installation for which a permit is issued previous to or after its completion, and if such installation has been constructed according to the rules and regulations contained in this ordinance, he shall issue a certificate to that effect.

10. A preliminary certificate may be issued by the city electrician in the case of completed installations but upon which no lighting or power current will be used in the immediate future. Such preliminary certificate shall show that at the date of inspection the installation was completed in accordance with the terms of this ordinance. But before the introduction of electric current into the premises a second or final inspection shall be made, when, if the installation is still in accordance with the terms of this ordinance, a final certificate shall be issued.

11. The city electrician shall inspect all overhead, underground and interior wires and apparatus conducting electric current for light heat or power, and when any such wire or apparatus is found to be unsafe for life or property he shall notify the person, firm or corporation owning, using or operating the same to put the same in a safe and secure condition within forty-eight hours. Any person, firm or corporation failing to comply with such notice within forty-eight hours after the receipt of such notice shall be liable to a penalty not exceeding fifty dollars.

12. In case of emergency where the necessary delay in obtaining a permit would be dangerous to life or property, temporary repairs may be made without a permit, but in any such case an application shall be made for a permit within twenty-four hours after the temporary repairs have been commenced, and the application shall state the nature of the work done.

13. In any work performed under the provisions of this ordinance the rules and regulations of the National Board of Fire Underwriters shall be strictly observed.

14. A board of wiring examiners is hereby constituted to consist of the City Engineer (who shall be chairman of the board) and

City Electrician. The board shall be called together by the City Engineer at such times as he considers necessary.

15. No person shall carry on the business of interior wiring unless he is duly licensed to carry on the same and is registered as such in the office of the Clerk of Works. The person obtaining such license shall pay to the Clerk of Works the sum of ten dollars for the same.

16. To entitle any person to a license under the next preceding section of this ordinance he shall be of the full age of twenty-one years and have a place of business as an electric wireman in the City of Halifax, and shall agree as a condition of obtaining such license to carry on business in compliance with the rules, regulations and requirements of this ordinance.

17. Every person before doing any interior wiring for or on account of himself or any licensed wireman shall be a practical and experienced wireman and furnish the board of wiring examiners sufficient evidence that he is capable of properly doing and performing interior wiring work, and if the board is satisfied of his competency to perform such work it shall cause his name to be registered in the office of the city electrician, and the city electrician shall give him a certificate of competency as a journeyman wireman, after which he shall be at liberty to do such wiring work, but not before.

18. Every person desiring a license as a licensed wireman or a certificate as a journeyman wireman shall file a petition in writing with the clerk of works, giving the name of the applicant, and, if the applicant is applying for a licensed wireman's license, he shall state in his petition his age and place of business in the City, and such petition shall be accompanied with the bond hereinafter mentioned.

19. Any change in the location of the business of any licensed wireman shall be promptly reported to the clerk of works.

20. Any journeyman wireman desiring to become a licensed wireman shall first comply with these rules and regulations as to licensed wiremen, and no journeyman wireman shall do business as a licensed wireman until he has obtained a license, notwithstanding anything in this ordinance.

21. Any journeyman wireman who furnishes satisfactory evidence to the board of wiring examiners that he has carried on business as a practical and experienced journeyman wireman for

four years, next previous to January 1st, 1906, shall be entitled to receive registration without examination.

22. Every licensed wireman shall be held responsible for everything done by any person in his employ in connection with the wiring work in respect to which a license is granted.

23. Every licensed wireman shall employ only certificated journeymen wiremen to do wiring work, but the work may be done and performed by any practical wireman under the guidance and direction of a certificated journeyman wireman then present directing the work.

24. Every wiremen before obtaining a license shall file a bond with the clerk of works in the penal sum of two hundred dollars, conditioned for the faithful performance of his duty as a licensed wiremen, and for his not permitting any wiring work that he is called upon to do to be performed by any person in his employ, except by such persons as are authorized to do wiring work under this ordinance, and for his not violating any of the terms and conditions thereof, or any amendment from time to time made thereto.

25. No person shall carry on business as a licensed wireman unless he is the holder of the license herein mentioned, nor shall any journeyman wireman do or perform any wiring construction work or repairs to wiring installations until he has obtained his certificate under this ordinance.

26. The board of wiring examiners shall have the power at any time to cancel any wireman's license or any journeyman wireman's certificate for cause, and thereupon all rights of such wireman or journeyman wireman to do any wiring work under this ordinance shall cease and determine.

27. The license to licensed wiremen shall expire on the 30th day of April in each and every year, but it may be renewed by the board of wiring examiners, and every licensed wireman shall pay one dollar for each such renewal.

28. Every person who contravenes or fails to comply with any provision of this ordinance shall for each such offence be liable to a penalty not less than five dollars or more than eighty dollars, and in default of payment to imprisonment for a period not to exceed ninety days.

## Valuation for Assessment.

## AS RETURNED BY THE CITY ASSESSORS.

1850.	Total valuation of Property, personal and real—Mortgages not included. Real estate valued at 10 times yearly rental.		\$10,561,970
1854.	Total valuation prop.—personal and real.	Mort. not included.	10,360,740
1857.	"	Mort. included....	14,660,232
1859.	"	"	14,989,884
1862.	"	Mort. omitted....	12,147,304
1-63.	"	"	14,066,020
1865.	"	"	16,248,752
1864-69.	"	" Rate, 92c.	16,765,976
1870-71.	"	" 1.05c.	16,856,783
1871-72.	"	" 1.09c.	17,487,266
1872-73.	"	" 1.03c.	18,261,000
1873-74.	"	" 1.01c.	19,772,545
1874-75.	"	" 1.05c.	19,889,522
1875-76.	"	" 1.15c.	19,781,249
1876-77.	"	" 1.25c.	18,553,768
1-77-78.	"	" 1.33c.	16,695,794
1878-79.	"	" 1.36c.	17,256,217
1879-80.	Real Estate (valued at 10 times rental).....		11,222,404
	Personal Estate, Banks, etc.....		4,281,083
	Rate per cent., \$1.53.....		<u>\$15,603,578</u>
1880-81.	Real Estate.....		\$10,884,250
	Personal Estate, Banks, etc.....		3,584,270
	Rate per cent., \$1.37.....		<u>\$14,468,250</u>
1881-82.	Real Estate.....		\$11,037,150
	Personal Estate, Banks, etc.....		3,476,592
	Rate per cent., \$1.51.....		<u>\$14,513,742</u>
1882-83.	Real Estate.....		\$10,863,034
	Personal Estate, Banks, etc.....		4,692,654
	Rate per cent., \$1.62.....		<u>\$15,555,688</u>

1883-84.	Real Estate .....	\$11,674,195
	Personal Estate, Banks, etc .....	5,480,510
	Rate per cent., \$1.44 .....	<u>\$17,154,705</u>

Assessment under amended Act of 19th April, 1883, valuation of Real Estate being made irrespective of rental, in accordance with judgment of Assessors, and Banks and Companies rated at three-eighths of one per cent. on paid up capital.

1884-85.	Real Estate .....	\$14,976,540
	Personal Estate .....	4,299,430
	Banks and Companies .....	1,469,272
	Rate per cent., \$1.10 .....	<u>\$21,445,242</u>

1885-86.	Real Estate .....	\$15,131,130
	Personal Estate .....	4,707,645
	Banks and Companies .....	1,469,255
	Rate per cent., \$1.23 .....	<u>\$21,311,030</u>

1886-87.	Real Estate .....	\$14,577,930
	Personal Estate .....	5,044,335
	Banks and Companies .....	1,469,225
	Rate per cent., \$1.28 .....	<u>\$21,091,490</u>

1887-88.	Real Estate .....	\$15,091,000
	Personal Estate .....	4,434,210
	Banks and Companies .....	1,370,544
	Rate per cent., \$1.17 .....	<u>\$20,895,754</u>

1888-89.	Real Estate .....	\$15,334,693
	Personal Estate .....	4,240,900
	Banks and Companies .....	1,987,000
	Rate per cent., \$1.33 .....	<u>\$21,562,600</u>

1889-90.	Real Estate .....	\$15,122,495
	Personal Estate .....	4,539,934
	Banks and Companies .....	2,132,201
	Rate per cent., \$1.24 .....	<u>\$21,794,629</u>

1890-91.	Real Estate .....	\$14,871,565
	Personal Estate .....	4,547,500
	Banks and Companies .....	2,330,827
	Rate per cent., \$1.33 .....	<u>\$21,749,892</u>
1891-92.	Real Estate .....	\$15,086,890
	Personal Estate .....	4,617,000
	Banks and Companies .....	2,137,931
	Rate per cent., \$1.45 .....	<u>\$21,841,821</u>
1892-93.	Real Estate .....	\$15,212,150
	Personal Estate .....	4,609,000
	Banks and Companies .....	2,073,423
	Rate per cent., \$1.49 .....	<u>\$22,194,573</u>
1893-94.	Real Estate .....	\$15,485,685
	Personal Estate .....	4,922,300
	Banks and Companies .....	1,956,522
	Rate per cent., \$1.61 .....	<u>\$22,364,507</u>
1894-95.	Real Estate .....	\$15,795,810
	Personal Estate .....	5,003,650
	Banks and Companies .....	2,152,777
	Rate per cent., \$1.44 .....	<u>\$22,952,237</u>
1895-96.	Real Estate .....	\$15,951,110
	Personal Estate .....	5,192,400
	Banks and Companies .....	2,246,376
	Rate per cent., \$1.38 .....	<u>\$23,389,886</u>
1896-97.	Real Estate .....	\$16,139,400
	Personal Estate .....	4,299,250
	Banks and Companies .....	2,215,190
	Rate per cent., \$1.68 .....	<u>\$22,653,900</u>
1897-98.	Real Estate .....	\$16,579,830
	Personal Estate .....	4,324,400
	Banks and Companies .....	2,085,276
	Rate per cent., \$1.63 .....	<u>\$22,989,506</u>

## VALUATION FOR ASSESSMENT.

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1898-99	Real Estate .....	\$16,891,885
	Personal Estate.....	4,324,400
	Banks and Companies.....	1,987,577
	Rate per cent., \$1.61 .....	<u>\$23,260,963</u>
1899-00.	Real Estate.....	\$16,708,285
	Personal Estate.....	4,204,500
	Banks and Companies.....	2,209,302
	Rate per cent., \$1.72.....	<u>\$23,122,087</u>
1900-01.	Real Estate.....	\$16,948,830
	Personal Estate.....	4,220,350
	Banks and Companies.....	2,222,222
	Rate per cent., \$1.71 .....	<u>\$23,391,402</u>
1901-02.	Real Estate .....	\$17,043,375
	Personal Estate.....	4,306,800
	Banks and Companies.....	2,176,470
	Rate per cent., \$1.70.....	<u>\$23,526,645</u>
1902-03.	Real Estate.....	16,997,350
	Personal Property.....	4,421,300
	Banks and Companies.....	2,354,651
	Rate per cent., \$1.72.....	<u>\$23,773,301</u>
1903-04.	Real Estate .....	\$17,804,050
	Personal Property.....	4,664,600
	Banking Capital, \$4,500,000, less Real Estate, \$240,000, at $\frac{2}{3}$ of 1% .....	4,260,000
	Rate per cent., \$1.66 .....	<u>\$26,728,650</u>
1904-05.	Real Estate.....	\$17,712,425
	Personal Property.....	4,938,650
	Banking Capital, \$4,500,000, less Real Estate, \$268,000, at $\frac{2}{3}$ of 1%.....	4,232,000
	Rate per cent., \$1.69.....	<u>\$26,883,075</u>
1905-06.	Real Estate .....	\$17,843,650
	Personal Property.....	4,954,400
	Banking Capital, less Real Estate at $\frac{2}{3}$ of 1% .....	4,232,000
	Rate per cent., \$1.73.....	<u>\$27,030,050</u>
1906 07.	Real Estate.....	\$18,199,875
	Personal Property.....	5,212,300
	Banking Capital, less Real Estate at $\frac{2}{3}$ of 1% .....	3,576,000
	Rate per cent., \$1.72.....	<u>\$26,988,175</u>

## VALUATION FOR ASSESSMENT.

1907-8.	Real Estate.....	\$18,470,800
	Personal Property.....	5,150,300
	Banks.....	4,500,000

Rate per cent., \$1.79..... \$28,121,100

1908-9.	Real Estate.....	\$18,795,950
	Personal Property.....	5,203,200
	Banks.....	4,500,000

Rate per cent., \$1.91..... \$28,499.15

List of the Mayors of the City of Halifax since the City was  
Incorporated in 1841.

Oct.	1841—Stephen Binney.	Oct.	1874—John A. Sinclair.
Mar.	1842—Edward Kenney, elected to serve out remainder of Mr. Binney's time.	"	1875—M. H. Richey.
Oct.	1842—Thomas Williamson.	"	1876—M. H. Richey.
"	1843—Alex. Keith.	"	1877—M. H. Richey.
"	1844—Hon. Hugh Bell.	"	1878—Stephen Tobin.
"	1845—Andrew McKinlay.	"	1879—Stephen Tobin.
"	1846—Joseph Jennings.	"	1880—Stephen Tobin.
"	1847—Wm. Stairs.	"	1881—George Fraser.
"	1848—Adam Hemmeon.	"	1882—George Fraser.
"	1849—Henry Pryor.	May	1883—George Fraser.
"	1850—William Caldwell.	"	1884—James C. Mackintosh.
"	1851—Andrew McKinlay.	"	1885—James C. Mackintosh.
"	1852—Hon A. Keith.	"	1886—James C. Mackintosh.
"	1853—Henry Pryor.	"	1887—Patrick O'Mullin.
"	1854—Henry Pryor.	"	1888—Patrick O'Mullin.
"	1855—Archibald Scott.	"	1889—David McPherson.
"	1856—Archibald Scott.	"	1890—David McPherson.
"	1857—Henry Pryor.	"	1891—David McPherson.
"	1858—Henry Pryor.	"	1892—Michael E. Keefe.
"	1859—Samuel R. Caldwell.	"	1893—Michael E. Keefe.
"	1860—Samuel R. Caldwell.	"	1894—Michael E. Keefe.
"	1861—P. C Hill.	"	1895—David McPherson.
"	1862—P. C Hill.	"	1896—David McPherson.
"	1863—P. C Hill.	"	1897—Alex. Stephen.
"	1864—M. H. Richey.	"	1898—Alex Stephen.
"	1865—M. H. Richey.	"	1899—Jas. T. Hamilton.
"	1866—M. H. Richey.	"	1900—Jas. T. Hamilton.
"	1867—Stephen Tobin.	"	1901—Jas. T. Hamilton.
"	1868—Stephen Tobin.	"	1902—Adam B. Crosby.
"	1869—Stephen Tobin.	"	1903—Adam B. Crosby.
"	1870—Hon W. A. Henry.	"	1904—Adam B. Crosby.
"	1871—William Dunbar.	"	1905—Robert T. MacIlreath.
"	1872—James Duggan.	"	1906—Robert T. MacIlreath.
"	1873—John A. Sinclair.	"	1907—Robert T. MacIlreath.
		"	1908—Adam B. Crosby.
		"	1909—Joseph A. Chisholm.

When the City was first incorporated, and until April 12th 1849, the Corporation consisted of Mayor, six Aldermen and twelve Common Councillors, the Mayor being elected by the Aldermen and Common Councillors from among the Aldermen. In 1849 the office of Common Councilman was abolished. From 1850 to 1853 the Mayors were elected by the citizens from the members of the City Council, or from gentlemen who had previously served as Alderman or Common Councilman. Wm. Caldwell was the first Mayor elected by the citizens under this system. In 1854 the Act in relation to the election of Mayor was further amended by providing that the people should not be restricted to persons who had served in the City Council in their choice for Mayor. The only occasion on which this privilege was availed of was in 1870, in the election of Hon. W. A. Henry. From 1841 to 1882 the general civic elections were held in October of each year. From April, 1883, to date, the general elections have been held annually in April. The civic year extends from 1st May in any one year to 30th April in the year following.

## CITY COUNCIL.

The Act of Incorporation of the City of Halifax passed the House of Assembly April 10th, 1841. On May 12th, 1841, an election was held in each of the wards of the City for three Common Councilmen for each ward. The first meeting of the City Council was held in the County Court House May 13th, 1841. The Council from 1841 to 1849 consisted of six Aldermen and twelve Common Councilors. The following table shows the dates of election and the names of the gentlemen composing the City Council between those years, designating the Aldermen and Common Councilmen respectively and the wards they represented. The first Common Councilors were elected by the citizens. Subsequently the Common Councilors were elected by the ratepayers. The Common Councilors from among themselves chose the Aldermen; and the Aldermen and Common Councilmen from out of the Aldermen elected the Mayors. Each year six senior Common Councilmen and three senior Aldermen retired, the order of seniority being fixed by the Council. The following lists do not contain the names of gentlemen who were elected but did not serve in the City Council because of unwillingness to serve, disqualification, irregularity of election, or other reasons.

DATE OF ELECTION.	WARD ONE.	WARD TWO.	WARD THREE.	WARD FOUR.	WARD FIVE.	WARD SIX.	OFFICE.
1st Council.	James Tremain .....	Thomas Williamson.	Edward Kenny .....	John Duffus .....	William J. Starr....	John Edward Starr.	Alderman
do	Wm. G. Anderson .....	Alex Keith .....	Wm. Caldwell .....	Hon Hugh Bell .....	Andrew McKinlay ..	Nepean Clarke.....	Councillor.
do	Edward Allison.....	Wm. Story, jr.....	Stephen Binney.....	Hon. J Leander Starr	Conrod West .....	John Steele .....	do
June, 1841..	.....	.....	Andrew M. Unlacke.	.....	.....	.....	do
Oct., 1841..	.....	.....	.....	.....	Adam Hemmeon.....	.....	do
do	.....	.....	.....	.....	Andrew McKinlay ..	.....	Alderman.
Nov., 1841..	.....	.....	.....	Joseph Jennings.....	.....	.....	Councillor.
May, 1842..	.....	.....	Archibald Sinclair ..	.....	.....	.....	do
do	.....	.....	Andrew M. Unlacke.	.....	.....	.....	Alderman.
Oct., 1842..	Wm. G. Anderson .....	Alex Keith.....	Wm. Caldwell .....	Hon. Hugh Bell .....	Adam Hemmeon.....	John Winters .....	Councillor.
do	.....	Wm. B. Fairbanks..	.....	.....	.....	.....	do
do	.....	Alex. Keith .....	.....	.....	.....	.....	Alderman.
Oct., 1843..	Edward Allison.....	Wm. Story, jr.....	Archibald Sinclair ..	Joseph Jennings.....	John Rhind .....	David Rugg .....	Councillor.
do	Henry Pryor.....	Henry Spike .....	Benjamin E. Black..	Charles D. Hunter..	.....	.....	do
do	Edward Allison.....	Wm. Story, jr.....	Wm. Caldwell .....	Hon. Hugh Bell .....	.....	.....	Alderman.
Oct., 1844..	Charles M. Cleary .....	Wm. B. Fairbanks..	Archibald Sinclair..	Joseph Jennings.....	Adam Hemmeon.....	John Winters.....	Councillor.
do	Wm. G. Anderson .....	.....	.....	Henry Mignowitz.....	.....	.....	do
do	Henry Pryor .....	.....	.....	Joseph Jennings.....	.....	.....	Alderman.

Oct., 1845..	Charles M. Cleary..	Robt. Richardson..	Benjamin E. Black..	Chas. D. Hunter...	Fredk. W. Clarke..	Edward Billing....	Councillor.
do	.....	James Thomson...	.....	.....	Andrew McKinlay..	David Rugg.....	do
do	.....	Wm. B. Fairbanks..	.....	.....	Andrew McKinlay..	John Winters....	Alderman.
do	.....	.....	.....	.....	Daniel Creauer...	.....	Councillor.
do	.....	.....	.....	.....	Adam Hemmeon...	.....	Alderman.
Oct., 1846..	Wm. G. Anderson..	Robt. Richardson..	John B. Leishman..	Henry Mignowitz..	F. W. Clarke.....	Edward Billing....	Councillor.
do	Wm. Stairs.....	.....	Thos. C. Bolton...	Thomas Ring.....	.....	Hon. Hugh Bell...	do
do	Wm. Stairs.....	.....	John B. Leishman..	Chas. D. Hunter...	.....	David Rugg.....	Alderman.
Oct., 1847..	Wm. Smith.....	Benjamin Wier....	John Watt.....	Henry Mignowitz..	John McNab.....	John King.....	Councillor.
do	Wm. Stairs.....	.....	Elias Cabot.....	John Naylor.....	.....	.....	do
do	Wm. Stairs.....	.....	Thos. C. Bolton...	Henry Mignowitz..	.....	.....	Alderman.
do	Thos. Laidlaw....	.....	.....	.....	.....	.....	Councillor.
do	Thos. Laidlaw....	.....	.....	.....	.....	.....	Alderman.
do	.....	.....	.....	.....	.....	John Longard....	Councillor.
Feb., 1848..	.....	.....	.....	.....	.....	.....	do
Sept., 1848..	.....	.....	Joseph Bennett...	.....	.....	.....	Alderman.
do	.....	.....	John Watt.....	.....	.....	.....	Councillor.
Oct., 1848..	Wm. G. Anderson..	Robt. Richardson..	Elias Cabot.....	Thomas Ring.....	Wm. J. Coleman...	Joseph Jennings..	do
do	.....	T. Rowland Braine	.....	.....	John Northup....	.....	do
do	.....	Robt. Richardson..	.....	.....	John McNab.....	.....	Alderman

On April 12th, 1849, the below named, then being Common Councillors, were sworn into office as Aldermen, agreeably to the Act passed in April of that year, the office of Common Councillor having been by said Act abolished :

DATE OF ELECTION.	WARD ONE.	WARD TWO.	WARD THREE.	WARD FOUR.	WARD FIVE.	WARD SIX.
April, 1849....	William Smith.....	T. Rowland Braine..	Joseph Bennett....	John Naylor.....	Wm. J. Coleman...	John King.
do	Wm. G. Anderson..	Benjamin Wier.....	Elias Cabot.....	Thomas Ring.....	John Northup....	Joseph Jennings.

The following table shows the dates of election of Aldermen, and the wards they represented, from 1849 to date :

DATE OF ELECTION.	WARD ONE.	WARD TWO.	WARD THREE.	WARD FOUR.	WARD FIVE.	WARD SIX.
Sept., 1849....	.....	.....	.....	William Murdock...	.....	.....
Oct., 1849....	Henry Pryor.....	Alex. Keith.....	William Caldwell...	John Naylor.....	William Johns....	John H. Anderson.
do	George Mitchell..	Benjamin Smithers..	.....	.....	William Roche....	John King.
Oct., 1850....	Wm. G. Anderson..	Robert Noble.....	William S. More....	John Esson.....	Robert Skimmings..	Alex. Knight.
do	.....	.....	Peter Morrissey...	.....	.....	.....
Oct., 1851....	Patrick Power....	Archibald Scott....	John Gibson.....	Bernard O'Neill....	Richard Nugent....	John King.
Oct., 1852....	Thomas Adams....	Benjamin W. Saiter..	Alex. Primrose....	William Davey.....	William T. Woodill..	John Longard

## LIST OF ALDERMEN.—(Continued.)

DATE OF ELECTION.	WARD ONE.	WARD TWO.	WARD THREE.	WARD FOUR.	WARD FIVE.	WARD SIX.
Oct., 1853.	Henry E. Pugsley	Hugh Hartshorne	Peter Morrissey	William Evans	William J. Coleman	William Sutherland
Oct., 1854.	Wm. G. Anderson	Maurice McLreith	Joseph Bennett	Peter Ross	James Pollock	John King
Oct., 1855.	William J. Stairs	Donald Murray	James Cochran	John Wills	Henry E. Harvey	John Longard
do		John W. Young			Jeremiah Conway	
Nov., 1855.			Joseph Bell			
May, 1856.						
Oct., 1856.	Patrick Donahoe	Samuel R. Caldwell	Peter Morrissey	Thomas Ring	William McKay	
do		Matthew Lownds			John L. Barry	Joseph Jennings
April, 1857.	Samuel Noble					
Oct., 1857.		Matthew Lownds	Charles Twining	William C. Moir	Patrick Forristal	John A. Bell
do		James Thomson				
Nov., 1857.	Henry E. Pugsley					
May, 1858.						
Oct., 1858.	Dr. Chas. Cogswell	Charles Barnstead	Phillip Thompson	John Wills	Henry Mignowitz	
do					Jeremiah Conway	Matthew H. Richey
Oct., 1859.	John B. Fay					
do	John Duggan	John D. Nash	James Duggan	William Evans	Richard T. Roome	Joseph Jennings
Jan., 1860.					Edward Leahy	
Oct., 1860.	F. Carteret Hill	John McCulloch	Thomas Walsh	Samuel Trenaman	Edward Leahy	Joseph Kaye
do	William Compton		William Ackhurst	William J. Coleman		
Oct., 1861.	Peter Imlay		John Egan	Samuel Trenaman	Jeremiah Conway	Matthew H. Richey
do				William H. Pallister		
Nov., 1861.		William Dunbar				
Oct., 1862.	Henry G. Hill	John Meagher	Thomas Boggs, jr.	William H. Pallister	William Roche	Joseph Jennings
do						Edward D. Meynell
July, 1863.					Thomas Spence	
Oct., 1863.	James Tobin	Robert Richardson	John D. Nash	John Murphy	William Roche	John Mumford
Oct., 1864.	John McCulloch	William Dunbar	William Ackhurst	Samuel Trenaman	James Cullen	John Starr
do					Jeremiah Conway	
April, 1866.	Stephen Tobin					
Oct., 1865.	Stephen Tobin	John H. Symons	William Gossip	Edward W. Chipman	Jeremiah Conway	George Drillo
Oct., 1866.	Thomas Graham	Robert Richardson	John D. Nash	John Murphy	Edward Leahy	Joseph Jennings
Oct., 1867.	James Pryor	William Dunbar	James Butler	Samuel Trenaman	William Barron	Fredk. Wm. Horley
do	John A. Sinclair	Patrick Mahoney		Thomas Walsh		
Feb., 1868.						
June, 1868.				Hugh W. Blackadar		
Oct., 1868.	John A. Sinclair	Patrick Mahoney	W. Myers Gray	Thomas Walsh	John Flinn	Robert Davis
do	George J. Troop				John Flinn	Douglas M. Story
Oct., 1869.	Wm. Montgomery	John T. Wyde	James Duggan	John Murphy	James Graham	Robert Davis
Oct., 1870.	John McCulloch	Robert Richardson	Lawrence G. Power	Hugh W. Blackadar	William Taylor	William Nisbet
Oct., 1871.	William H. Neal	Edward Smith	William Ackhurst	William Barron	John S. D. Thompson	Daniel Sullivan
do						Richard T. Roome
Nov., 1871.	Joseph Seeton					

Oct., 1872.	George Fraser.....	Edgar Dodson.....	Alex. Forsyth.....	Michael J. Power....	James R. Graham....	Cuthbert C. Vaux..
Mar., 1873.	Henry A. Taylor.....	Henry A. Taylor.....	Thomas P. Connolly..	Joseph Seeton.....	David Ellis.....	Richard T. Roome..
Oct., 1873.	William J. Coleman..	Joseph Coombes.....	Lawrence G. Power..	Allison Smith.....	John S. D. Thompson	William Nisbet.
do	John R. Murray.....	William Murray.....	.....	.....	.....	David McPherson.
Oct. 1874.	John D. Mackintosh..	Wm. D. Harrington..	Alex. Forsyth.....	Michael J. Power....	James R. Graham....	David McPherson.
May, 1875.	John D. Mackintosh..	Chas. J. Macdonald..	Thomas P. Connolly..	Francis O'Connor....	John M. DeWolfe....	William Taylor.
Oct., 1875.	Samuel M. Brookfield	William Murray.....	Alex. P. Reid, M. D..	George L. Chipman..	Lawrence Houlett..	William Nisbet.
Feb., 1876.	Rueben I. Hart.....	Thos. Trenaman, M. D.	.....	.....	.....	.....
Oct., 1876.	George Fraser.....	Thos. Trenaman, M. D.	George A. Sanford..	Thomas Walsh, M. D.	William Woodill....	David McPherson..
do	Thomas Clay.....	Jeremiah Murphy....	Thomas P. Connolly..	Francis O'Connor....	James R. Graham....	Douglas M. Story.
Oct., 1878.	James C. Mackintosh	William Murray.....	Robert Motton.....	George McLellan....	Lawrence Houlett..	William Nisbet.
do	George Fraser.....	Thomas Spelman....	.....	.....	.....	.....
Oct., 1879.	William F. MacCoy....	Thos. Trenaman, M. D.	Benjamin A. Smith..	Patrick O'Mullin....	William Woodill....	David McPherson.
Nov., 1880.	Robert Sedgwick....	Alex. G. Hesslein....	Alex. Stephen.....	Francis O'Connor....	James R. Graham....	Edward O'Bryan.
Oct., 1881.	James C. Mackintosh	Thomas Spelman....	Wm. B. McSweeney..	George McLellan....	James Shand.....	John P. Longard.
do	Robert Sedgwick....	Duncan McDougall..	.....	.....	John Ead.....	.....
Oct., 1882.	.....	.....	.....	Robert Theakston..	.....	.....
Nov., 1882.	.....	.....	.....	Patrick O'Mullin....	John McInnis.....	William Taylor.
April, 1883.	Benjamin F. Pearson	D. McDougall.....	James E. Wilson....	.....	.....	.....
do	George Rent.....	Charles H. Smith....	Alex. Stephen.....	Robert Theakston..	William Woodill....	Hodgett F. Worrall.
Nov. 1883.	.....	Wm. C. Delaney....	.....	.....	.....	.....
April, 1884.	George Rent.....	Michael E. Keefe....	James J. O'Brien....	James E. Irish.....	James N. Lyons.....	Saul Mosher.
Mar., 1885.	James A. Chipman....	C. Hudson Smith....	Wm. F. Pickering..	David Roche.....	David L. Johns....	David McPherson.
April, 1885.	Thomas E. Cook.....	.....	.....	Henry Hechler....	.....	.....
Nov., 1885.	B. Franklyn Pearson.	Wm. D. Harrington..	James T. Hamilton..	Andrew Mackinlay..	Miner T. Foster....	Hodgett F. Worrall.
April, 1886.	.....	.....	.....	Mledge H. Ruggles..	.....	Charles W. Outhit.
April, 1887.	John W. Ruhland....	Alex. G. Hesslein....	Edw. W. O'Donnell..	Rufus J. Sweet.....	James N. Lyons.....	Saul Mosher.
June, 1887.	.....	Michael E. Keefe....	.....	.....	John Davison....	John Davison.
Feb., 1888.	John D. Mackintosh.	William Dennis.....	Wm. F. Pickering..	David F. Power....	William McFatridge.	James Adams.
Apr., 1888.	.....	William Dennis.....	Israel S. Sanford..	.....	.....	.....
Dec., 1888.	John D. Mackintosh.	.....	James T. Hamilton..	John F. Ryan.....	Miner T. Foster....	Charles W. Outhit.
Mar., 1889.	.....	.....	.....	Charles S. Lane....	.....	.....
Apr., 1889.	John D. Mackintosh.	.....	Patrick M. Duggan..	Andrew Hubley....	Frank Eden.....	Saul Mosher.
May, 1889.	.....	.....	Thomas Mitchell....	Edw. W. O'Lonnell..	William McFatridge.	Isaac Creighton.
July, 1889.	George E. Boak.....	.....	.....	.....	.....	Charles W. Outhit.
Apr., 1890.	William Dennis.....	.....	.....	.....	.....	.....
May, 1890.	Thomas C. Allen....	Arthur W. Redden....	James T. Hamilton..	John F. Ryan.....	Miner T. Foster....	Charles W. Outhit.
Apr., 1891.	.....	William J. Stewart..	Charles S. Lane....	Andrew Hubley....	Frank Eden.....	Saul Mosher.
Nov., 1891.	James E. Roy.....	.....	.....	.....	.....	.....
Dec., 1891.	Geoffrey Morrow..	.....	.....	.....	.....	.....
Apr., 1892.	William J. Stewart..	.....	.....	.....	.....	.....
Apr., 1893.	.....	.....	.....	.....	.....	.....
Jan., 1894.	.....	.....	.....	.....	.....	.....
Feb., 1894.	John M. Geldert, Jr.	.....	.....	.....	.....	.....
Apr., 1894.	George Musgrave....	.....	.....	.....	.....	.....
Apr., 1895.	.....	.....	.....	.....	.....	.....

## LIST OF ALDERMEN.—(Continued.)

DATE OF ELECTION.	WARD ONE.	WARD TWO.	WARD THREE.	WARD FOUR.	WARD FIVE.	WARD SIX.
April, 1896...	George E. Faulkner...	Daniel H. Campbell...	Thomas Mitchell	Edw. W. O'Donnell...	William McPatridge...	Isaac Creighton.
April, 1897...	John M. Geldert, jr...	Arthur W. Redden...	John Menger	John F. Ryan	W. Stetson Rogers	A. C. Hawkins, M.D.
April, 1898...	George Musgrave...	William J. Butler...	Charles S. Lane	Andrew Hubley	Peter F. Martin	Saul Mosher.
April, 1899...	George E. Faulkner...	Daniel H. Campbell...	Thomas Mitchell	Edw. W. O'Donnell...	Murdoch Chisholm	Isaac Creighton.
April, 1900...	John M. Geldert, jr...	Robert T. MacIlreith...	James Halliday	John F. Ryan	W. Stetson Rogers	Arthur C. Hawkins.
April, 1901...	Wm. G. Robertson...	Thomas J. Barry	Adam B. Crosby	Andrew Lamphier	Peter F. Martin	Saul Mosher.
May, 1901...	Charles Archibald					James Adams.
Jan. 1902...			Thomas Spry			Chas. W. Hayward.
April, 1902...	William Lithgow	Daniel H. Campbell...	George A. Taylor	Andrew Hubley	Wm. H. Cawsey	
May, 1902...			Wm. B. Mahoney			
Feb., 1903...				E. F. Doyle		
April, 1903...	J. M. Geldert	J. A. Johnson	M. T. Foster	E. F. Doyle	W. S. Rogers	A. C. Hawkins.
June, 1903...	Jas. Halliday				P. F. Martin	
April, 1904...	Jas. Halliday	Thos. J. Barry	N. V. Gastonguay	A. Lamphier	P. F. Martin	Geo. A. MacKenzie.
June, 1904...	Lewis Archibald					
March, 1905...		Wm. R. Powell				
April, 1905...	Lewis Archibald	Walter C. Murray	George A. Taylor	Andrew Hubley	Wm. H. Cawsey	Chas. W. Hayward.
May, 1905...					Geo. M. Campbell	
April, 1906...	Ingram B. Shaffner...	Jacob A. Johnson	John B. Douglas	John F. Kelly	Geo. M. Campbell	Arthur C. Hawkins.
April, 1907...	Alfred Whitman	Joseph Chisholm	Patrick McManus	Chas. R. Hobin	Peter F. Martin	Geo. A. McKenzie.
July, 1907...					Robie S. Davison	
April, 1908...	S. Y. Wilson	Willis E. Hebb	Nelson B. Smith	Andrew Hubley	A. Audley Thompson	James S. Edwards.
June, 1908...		Fred. P. Bligh				John Raukine, M. D.

**FENERTY, et al VS. THE CITY OF HALIFAX.****JUDGMENT OF MR. JUSTICE MEAGHER.**

The plaintiff's Fenerty, and Henderson & Potts, own mills down stream between the defendant's lowest dam and the waters of the Arm. There is no proof as to McCleave except a representation, as to the location of his mill, upon a plan used at the trial and an admission of his title.

The averments in the statement of claim may be shortly stated thus:—

1. They are severally entitled as riparian proprietors to the use of the flow of water through the stream leading from chain of lakes through Chocolate Lake into the Arm.

2. They, and their predecessors in title, have respectively enjoyed from time immemorial the exclusive and continuous right to such flow.

3. They acquired the right thereto by an agreement of December 1st, 1846 between Thos. Hosterman their predecessor in title and the Halifax Water Co. the defendant's predecessor in title.

4. They are entitled by prescription to pen back, and store, in the chain of lakes by dams, &c., the water naturally flowing into and from the chain of lakes by said stream through their lands, and to let it down in suitable and sufficient quantities as required for their mills; such right was acquired from time immemorial, and they, and those through whom they claim title, enjoyed the exclusive and continuous use of that right, except when disturbed by the wrongful acts of the defendants, but against which they always protested.

5. Alternatively that the above right of storing and letting down was acquired under the Statute of Limitations by Thos. Hosterman by uninterrupted enjoyment as of right for twenty, or in the alternative, for forty years next preceding 1846: and that they acquired it through themselves and through defendants employees acting as their agents by uninterrupted enjoyment as of right, for twenty, or in the alternative, for forty years next before this action: and as an alternative they are entitled to have the full quantity of water naturally flowing from the chain of lakes by said stream through their respective lots penned back or stored in the chain of lakes by the defendants and to have it let down to them through that stream by the defendants in suitable and sufficient quantities as they or any of them may desire it, and that such right was acquired under the agreement of 1846.

The alleged injuries are that the defendants during the last three months of 1905, and on many other previous occasions, wrongfully obstructed said stream and withheld, and permanently diverted out of it large quantities of water, and largely diminished the quantity therein and deprived the plaintiffs of the use and benefit of such water for their mills; and that during the same months, and many other times previous thereto, the defendants wrongfully prevented the plaintiffs from penning back and storing the said water in the manner alleged,

and wrongfully refused to pen back and store such water on the plaintiffs' behalf as they were legally required to do under said agreement.

Damages were claimed and an injunction to restrain defendants from obstructing the stream and withholding or diverting any of the water naturally flowing therein from the chain of lakes. Also a declaration that the plaintiffs have the right to pen back and store in the chain of lakes the water naturally flowing into said lakes, and to let it down in suitable and sufficient quantities for the purpose of operating their mills; or in the alternative that the defendants are bound under such agreement to pen back and store, on the plaintiffs' behalf, said water, and to let it down as above stated.

The defence denied all material averments, and pleaded that the alleged rights were barred by the Statute of Limitations or were lost by laches and delay of their own, or of their predecessors in title; that the defendants by long and uninterrupted use and prescription, as of right, had acquired the right to use and to operate the waters of the chain of lakes in the manner complained of. The agreement of 1846 and a conventional user thereunder were also set up.

The action was commenced early in 1906 and after some evidence had been taken the defendants, in January 1907, admitted in the action that no water was let down by them to the plaintiffs during October and November 1905,—nor until the 3rd of December of that year, and for any damage thus occasioned, on those days only, they tendered \$100.00 in full satisfaction and discharge thereof: which sum was ultimately accepted and all questions of injury and damages thereby terminated.

The plaintiffs acquired title through Hosterman, while the defendants derived theirs, and accompanying right, from the Water Co., which obtained title and certain rights, subject to specified conditions, from Hosterman to land and water above the plaintiffs' mills by a deed of December 1st 1846, and to which I shall refer in greater detail later on.

The City also acquired title to the sites of the chain of lake dams from Dr. Cogswell in 1863. It was admitted upon the trial that Hosterman never owned such sites. It does not appear whether Hosterman in erecting—if he did erect them—or in maintaining, the old dams which, in 1846, were at the foot of the first and second chain of lakes respectively, was trespasser, or lessee or licensee; it is evident, however, he never acquired the right to maintain them where they were. The question, however, is of little or no moment.

The order and position of the several mills, as appears by the plan, are as follows:—Henderson & Potts' is next the Arm, and is below Chocolate Lake McCleave's is next above that lake, and Fenerty's is a short distance further up,

The distance between the first and second chain of lakes is quite short—there is a cut, or sluice way through between them. The defendants have a dam at the foot of each of these lakes practically, if not actually, upon the site of Hosterman's old ones already referred to.

Long Lake, owned by the City, lies, as nearly as may be, at a right angle from the second chain of lakes and in an southerly direction therefrom. Cocked Hat Lake comprises a narrow space running from the western end of Long Lake towards the second chain of lakes. There is a dam at the west end of Cocked Hat Lake and a trunk, or pipe line runs from it into 2nd Chain Lake near the centre of its eastern side; all belong to the defendants and form a medium of conveying the water of Long Lake and Cocked Hat Lake into chain of lakes.

The natural outlet of Long Lake was to the eastward, but it was dammed there by the Water Co., and its waters turned into the second chain of lakes as I have shewn.

The Water Co., began operations in connection with its system, in or about 1843. In 1846, and apparently for some time before, Hosterman was using the old dams referred to which, so far as they extended, occupied the respective sites of the City's dams now at the first and second chain lakes; the one lowest down stream was 7 or 8 feet with about an 18 inch sluice or gateway: the other was a foot or so lower in height. When tight which they were not about 1846, they gave a depth of 6 to 7 feet of water, or thereabouts, in the respective dams.

The Water Co., in 1849 cut out part of these dams, put in new sluice ways and raised the dams two feet or more beyond their height in Hosterman's time. They rebuilt them to a height of about 15 feet in all about 1856; or perhaps before then when they laid their 15 inch pipe.

The City acquired the rights, and title, of the Water Co., on the first of July 1861.

The operations of the Water Co., after 1846 and of the City, since 1861, very largely increased the water storage above those dams. If the mills below were now dependent upon the supply which the old dams. in and prior to 1846, preserved they would especially in dry seasons, be far worse off than they have been since the enlargement of the dams.

Up to 1883 all the principal mills shewn to have been in use were below Chocolate Lake and had the benefit of its drainage area which was more or less substantial. There is a rapid descent from the dam at the lower end of Chocolate Lake all the way down to the lowest mill which would add to the force of the water; which force was probably lost by the removal of the mill above that lake; but all this may have been counter-balanced and probably was, by the change in its machinery.

While it is not perhaps necessary unless in respect to the claim for an injunction, I shall refer briefly to the proof touching the supply of water and the course pursued in letting it down.

The nail factory was started about the same time as the Water Co. Munroe worked in it for a year about 1850; he was absent until 1855, and then worked in it about seven years and was not aware of its being shut down for want of water.

Thompson began working Henderson's Mills in 1880, continued it for five years, and was then away for 13 years, and on his return worked it for nine years. They ran ten hours a day—often several hours longer—and at times ran day and night. About 1887 they put in a steam plant for use in dry seasons, but so far as he knows it was only once in operation. During his 14 years service there the mill was only shut down twice for want of water; once for two days and then for some weeks in 1905 when it was extremely dry.

If the water supply sufficed to operate the mill in the manner disclosed by his evidence there was no occasion to put in the steam plant so early as 1887. Up to that time only two days had been lost by lack of water. If he is correct in this particular it shews that the City discharged its obligations faithfully.

Boston began working in 1860 for Hosterman and continued until 1868, and in that time they were only shut down twice for want of water. There were

two dry spells between 1860 and 1868; one lasted about two months. He was absent about two and one half years, but said there was no shortage from 1868 to 1879. The mills got water during dry periods; but not when it was extra dry.

Fenerty's experience began with 1874 and thence until 1883. The mill was not shut down more than once for want of water. In 1888 he had to shut down about two months due to an unusually dry season; and in 1893 they were three months without water due also to an extreme drought, and not, I should say, to any fault or obstruction on the part of the City.

Kline who entered the employ of the Water Co. in 1846 and continued with it, and later with the defendants, until some time in 1875, had charge of letting water down practically during all that time under directions from his superior officers, but not from the mill owners or any of them. He was of course familiar with the conditions over that period, and for some time before his employment began. During his period of service he says Hosterman's grist mill had to shut down from scarcity of water every dry season, even before the Water Co. began its operations there. Fenerty expressed an opinion to the same effect.

Fenerty, speaking of an alleged general system, said the City let water down in sufficient quantity to enable the mills to run ten hours a day (according to Thompson it must have done much better than that) and that the supply varied with the season and the rain fall.

Kline upon that subject said when there was sufficient supply in Long Lake he used to let it down under orders from his employers until it got low when he would shut it off under like orders and it would so remain until applications came from the mill owners for water—chiefly from Hosterman, and then, under like orders as before, he would open the sluice way to the extent directed. If there was not a supply in Long Lake the water was not let down; in dry times the water was shut off from the mills altogether until rain came. This, however, occurred less than a dozen times, he thought, during his thirty years service there.

Boston's statement that the City let water down when applied to by the mill owners is of no value as he only knew it from hearsay.

The contention of the plaintiffs upon the hearing was in these words, which I took down and read over to Counsel so as to ensure the accuracy of my notes; 1. they were entitled to an injunction to restrain defendants from diverting or withdrawing for its own purposes, or use, the waters of the chain of lakes, because in 1905 they shut off the water for a long time; or a declaration that the water shall not be shut off again. The defendants were only entitled to conduct Long Lake water through or from the chain of lakes, or flowing into it, and were only entitled to get the waters of Long Lake flowing through chain of lakes; the defendants were bound to preserve the status as it existed in 1846. That if the defendants stored water in the chain of lakes belonging to that area beyond 54,000,000 gallons the excess should be let down to plaintiffs, the defendants not being entitled to any part thereof; that the 54,000,000 gallons was the quantity shown to be there in August, 1845 by Jarvis' report to the Water Co., and finally that the City was bound to ascertain the quantity in the chain of lakes and what it took out, and for that purpose was bound to instal a proper meter and keep records thereof, to which the plaintiffs should have ready access; and that the City should store water in the chain of lakes and let it down to the plaintiffs as they required it.

The answer to the foregoing was in substance that the pleadings covered two claims only, viz, 1, that the City had diverted water the plaintiffs were entitled to either under title, or as riparian proprietors; and 2, that in 1905 the City diverted water which would have reached the plaintiffs by ordinary flow. The claims for storage by the City must arise either under the agreement or by prescription if at all; that the agreement was silent as to storage—and the pleadings did not rest it upon prescription; and if they did it was not sustained by proof. Fenerty admitted that his claim for storage by the City was persistently denied by the City authorities throughout. It was also urged that such claim for storage and to be let down as desired, and the claim to the ordinary flow from chain of lakes, where mutually destructive; that both could not exist together.

I can see no ground for holding that an obligation exists on the part of the City to store water for the plaintiffs. The agreement gave no such right expressly or impliedly that I can perceive, and my attention was not directed to any provision in it to any effect. What has been done, or insisted upon, or yielded to, or refused, since the agreement, in respect to storing, withholding, or letting water down, has not in any manner added to or affected the rights created or obligations imposed, by the agreement. Water was never stored by the City for the plaintiffs, or Hosterman, as a matter of right, or at all. It was stored for City purposes only and was let down in supposed pursuance of the agreement from time to time as a means of giving the plaintiffs as nearly as possible the natural flow of the chain of lakes under its provisions in that particular.

It cannot, I submit, be said that the Water Co., or the City, when from time to time they respectively stored, and let the water down, were acting in any sense as servants, or agents of the then mill owners or any of them, and thus gave rise to a prescriptive right. Fenerty said the City officials claimed they gave him from time to time, and day to day, the run of water which came from the chain of lakes area. This serves to show that these officials never supposed they were acting otherwise than under and in accordance with the agreement of 1846. The correspondence shows too that they were supposedly acting under the agreement, and not outside, nor in defiance, of it. They, however, it must now be taken, exceeded the City's rights when they shut the water off entirely for so long a time in 1905. The City has paid the damages for that, and it is ended.

It was admitted in argument, and at the outset of the trial, that the plaintiffs were entitled to the ordinary flow of the chain of lakes; and at the same time it was claimed that the City had done its best to give it to them, except during the period mentioned in the fall of 1905 when the water was shut off; and, apart from that, had given them substantially, and as nearly as might be, all they were entitled to have.

I shall refer in greater detail to the deed of 1846 and its covenants later on, but may say meantime that the City is bound by it, as the assigns of the Water Company and purchasers with notice.

With respect to the claim that the defendants should instal an efficient water meter, and that its system of measuring was defective, it was urged that neither was open under the pleadings; that such a liability, or duty was not created by the agreement, nor shewn by the proof. I accept this contention as correct. If however, the plaintiffs have suffered through the absence of proper measurement they have been compensated for it, and therefore it is not necessary to determine whether the system of measuring was defective or not,

The City being liable to give to the plaintiffs, as nearly as may be practicable the natural flow from the area of the chain of lakes, and to make good any loss or injury occasioned by their not receiving it through any act of the defendants, it is desirable that a reasonably accurate system of ascertaining the quantities respectively belonging to Long Lake and Cocked hat Lake, on the one hand, and the chain or lakes, on the other, should be provided so as to obviate disputes, but as to that so far as I can perceive it is optional with the defendants.

If the damages tendered had not been accepted, or if a claim for damages was pressed outside of the time the water was shut off, I suppose I should have had to consider the accuracy of the system of measuring employed by the City so as to determine whether or not the plaintiffs received their proper quantity or were injured by not receiving it. The course pursued by the plaintiffs relieved me from that task.

In opposition to the claim for an injunction it was argued that the dispute was going on more or less for sixty years or more—the correspondence alone showed that—and up to 1906 no action had been brought; and this served to show that the Water Co. and the City never gave much cause for complaint; and even this one was so trifling that the small sum of \$100.00 satisfied it; that an injunction might be appropriated if the City claimed water from the chain of lakes as a matter of right; but such a right was never claimed, and no threat, or intimation, was made that it would be—and there was no reason shown for any fear it would ever be claimed.

Fenerty the principal, if not the only real complainant, operates by steam a considerable portion of the season. Henderson & Potts also have a steam plant for use when the water is low in dry seasons and do not need so much water.

The City's method of dealing with the water did not create any new or additional right beyond the agreement; because its officials insisted throughout that what they did, and were doing, was under, and in pursuance of, the agreement of 1846.

If the City only shuts down in extremely dry seasons, and at a time when the mills could not work with the ordinary flow from chain of lakes, it is difficult to say that any injury would come to them merely from such shutting down—or one of any moment. The diversion to the City's use of the water of the chain of lakes is of course a different matter. The old dams Hosterman proposed gave but a very limited storage; and at most would only enable the mills to work very short periods. Fenerty admitted the mills could not run all summer, nor all winter, times, but for the dams.

Hosterman parted with all claim to the dams on the chain of lakes when he made the deed of 1846; there is no express stipulation that they would be retained or others substituted for them at their sites or elsewhere on the chain of lakes; and there is no indication of any intention to store the water of the chain of lakes in those lakes for him. The provisions in regard to water are that none of the waters of Long and Cocked hat lakes, which, by the terms of that agreement, were intended to be drawn into, and conducted through, chain of lakes, should be applied to working mill wheels or machinery; that the supply from the chain of lakes should not be at any time diminished below the quantity naturally flowing through the same "as theretofore" and such undiminished supply to be secured to Hosterman and his heirs by the Water Company.

It was probably understood by the parties to that deed and agreement, that dams would be built by the Water Company and water stored by it for its pur

poses through their operation and consequently that they would at times obstruct the regular and continuous flow from chain of lakes more or less from time to time and in dry seasons, when the mills could only work intermittently would be for the mutual advantage of both.

There is room too for the view that Hosterman became the servient tenement owner in respect to anything which might be lawfully, or reasonably, done by the Water Co.; and since by the City, as the owners of dams understood all round to serve the purpose of storing water to supply the City; and that the ordinary flow stipulated for was to be subject thereto.

This view seems all the more reasonable when it is seen that in the absence of dams the mill owners could not operate in dry seasons. The covenant, taken by itself strictly, would seem to disable the Water Co., thence the City, from obstructing the continuous flow from the chain of lakes, but that apparently was not the understanding of the parties judging from what was done immediately afterwards by the Water Co. in connection with the dams, and submitted to by Hosterman. Before that deed Hosterman had applied the waters from the chain of lakes to useful purposes of his own, so that, according to Lord Denman, C. J. in *Mason vs Hill* ( ) 5 B. & A. l., "Neither the owner of the land below could open it back nor he above divert it to his prejudice."

Water in a flowing stream, not an artificial one, cannot be unreasonably detained, nor essentially diminished as against those further down it, unless a right of exclusive enjoyment exists in him who detains, or diminishes it. A riparian proprietor may dam up the water of a stream for the purpose of a mill, and to that extent, I take it, may interrupt the regular flow of the stream for a time for the use of his mill; but this must be done in such a way as to be no more than a reasonable use of it, and so as not to interfere with its lawful use by those below him, nor to inflict a sensible injury upon them. *Coulson and Forbes on the Law of Waters* (Ed. of 1902) 122. See also for a full description of the point *Belfast Rope Works vs. Boyd* 21 L. R., Fr. p. 560.

Kerr on injunctions (Ed. of 1903) discussing the same subject says:—"A riparian proprietor has a right to the fall and flow of the water, and to the impelling force of the current, for mill, or other manufacturing purposes, and, as incident thereto, he has a right to erect dams, sluices, canals, and waterways, so as to fit the stream for the actual working of mills; and unless the use be such as to materially affect the adjoining proprietor a right of action will not arise. The test in all cases is whether the extent or mode of enjoyment has been such as to inflict a positive, or sensible, injury upon other riparian proprietors, or to interfere in a substantial and perceptible degree with their common right to a like user of the same water. Whether the use of the water by an upper proprietor be reasonable is generally a question of fact depending on the particular circumstances of the case. The maxim that water should be allowed to flow as it is want to flow if strictly construed and applied would prevent the use of such streams for manufacturing purposes. The construction of dams to collect a head of water, and of sluices and canals to convey, and discharge, it, is necessary to the operation of mills propelled by the water of a stream. The use of these appliances necessarily to a greater or less degree disturbs and interrupts the natural flow of the current, and often injures the proprietor below. But the fact that injury is occasioned to other riparian owners from the construction and use of dams is not decisive of the question whether such use is permissible. It is often difficult to determine whether a particular use is consistent with the reasonable use which belongs in common to all riparian owners. In determining

owners. In determining the question a just regard must be had to the force and magnitude of the current, the volume of water, its height and velocity, the fall, the nature of the soil, the mode and duration of the user, the general usage of the country and all other circumstances which may in a particular case bear upon the question."

Hosterman parted with all his rights arising from his prior application of the waters of the stream by the deed of 1846, and thereafter was dependent upon its provisions; and those now claiming under him have no rights against the City other than those springing expressly or impliedly, out of that document and these are necessarily subject to what was contemplated by the parties to that deed to be done by the Water Co., in furtherance of their business and the rights and powers conferred upon it by its provisions. Hosterman's rights, and consequently the plaintiffs, must therefore be regarded as if they first sprang into existence when that deed was made. At any rate whatever rights Hosterman may have acquired, or was in process of acquiring, by way of use, or prescription, were extinguished by it so far as they conflicted with any of the powers or privileges which the Water Co., were entitled to exercise under it.

It is evident that Hosterman, and his Solicitor, the Honourable John W. Ritchie, regarded the deed in the particular just mentioned as I do. The letter from Mr. Ritchie of the 18th of January 1893 proves that fact. It said:—"I would beg to say that he claims no more (referring to the water supply) than he has been receiving from that company ever since the agreement was entered into, nor does he desire greater privileges than the agreement conferred on him as distinctly understood by both contracting parties."

Upon the whole case it seems to me the City has, and it was intended it should have, the right to shut off the water in necessary augmentation of their supply just as an up-stream mill owner might from time to time; but it can only shut it off for a reasonable time upon each occasion, and so as not to inflict sensible injury upon the plaintiff through its being withheld. While this, in my view, is the case the City apparently is not entitled to divert or use water coming from the chain of lakes drainage area: I say apparently because I may not have gathered the correct meaning of the provisions of the deed in that particular. No argument was made upon that point and I shall abstain from discussing it further than to say that if the words "drawn from the chain of lakes" have reference only to the waters of Long and Cocked Hat Lakes coming through the chain of lakes, I do not understand why Hosterman should have exacted, or the Water Co., given a stipulation that such water would not be used for operating mill wheels, or machinery. He never was interested in the waters of Long Lake, except as a mere shareholder in the company; and as to those of Cocked Hat lake he conveyed to the Water Co., his entire right and title thereto; and therefore would not be supposed to restrict the Water Co.'s use thereof by such an inconsistent provision; nor can I perceive any reason why the Water Co. should yield to such a restriction upon their undoubted rights.

If the words adverted to refer to the waters from the drainage of the the chain of lakes area they are suggestive of an intended limited use thereof by the Company; but this view may be out of harmony with other provisions in the deed.

Hosterman contracted in the deed only for the natural flow as it existed before then. If therefore at any time there should happen to be in the chain of lakes a quantity of water which came from their drainage area, and which would produce a flow beyond the natural one existing in 1849, the City would be

entitled to such excess (I assume) if only, as a riparian owner as against those claiming under Hosterman whose rights were limited to the flow in and before 1846.

If an up-stream proprietor may, as he no doubt can, dam up its water for a limited time and thereby interrupt its regular, and continuous, flow, I do not see why the City may not, by means of its dams, shut off the flow for a time from the plaintiffs, even in the face of the agreement which does not contain any provision prohibiting such an act. Hosterman obtained by the deed in respect to the flow stipulated for what by common law he would have been entitled to as a riparian owner against an up-stream proprietor who dammed it.

Giving effect to the views I entertain I feel constrained to refuse the injunction sought; and which if granted would prevent the City from shutting the water off at any time; such a step would probably occasion injury to the plaintiffs themselves in dry seasons and hence their claim that the City should store it for them. The City is entitled to shut the water off to the extent I have indicated and therefore a perpetual injunction against that cannot be awarded; nor can I forecast in advance, the times at which it would be justified in exercising that right, nor for how long.

The only declaration asked for upon the agreement was that the City was not entitled to shut off the water at all. The same reasons exist for refusing it as for an injunction.

In order, however, to guard against any abuse of its powers by the City and to obviate the necessity for a fresh action in the event of the City resorting to an unreasonable exercise of its rights in the matter, I shall probably reserve leave, in the order for judgment, to the plaintiffs to apply for an injunction.

There is nothing in the case to lead me to believe the City will act arbitrarily or oppressively especially as its position has now been fully enquired into, and the relative rights and obligations of the parties, have in a general sense, been ascertained. There no doubt has been and will continue to be, more or less friction and controversy, and patience and moderation will be demanded and no doubt exercised by all parties as before. The injuries occasioned by any wrongful acts on the part of the City do not appear to have been in any degree substantial, and will, I take it in the future be almost, if not wholly, avoided. I realize that much difficulty will be experienced in accomplishing this, because of the fact that whether or not a wrong, or injury has been done to the plaintiffs by the action of the City in checking, controlling, or using the water will depend upon a number of facts some of which can never be ascertained with anything like precision, and others are difficult of determination, and of course open to varying conclusions.

I assume of course there will be an appeal from this decision and for that reason I shall state in addition to what I have already said the principles at some length by which I have been guided.

The rule is that once a party's legal right, and the fact of its violation, are established, he will generally be awarded an injunction to prevent a repetition of of such wrongful act; this is founded on the equity of relieving him from bringing a succession of suits and of finally quieting the right which has been determined, Kerr on Injunctions, Ed. of 1903, 25. But in general the Court will have regard not only to the dry strict rights of the parties, but also to the surrounding circumstances, and if the mischief complained of can be properly, adequately, and fully, compensated for by a pecuniary sum an injunction will not be granted,

Thus where a patentee has established his rights under it, and the fact of its infringement, an injunction will not in general be awarded unless there is a probability that the infringement is going to be repeated (Kerr 268.)

In this instance I see no reason for believing the acts complained of will be repeated, or if at all in such a way as to produce an injury to the plaintiffs which cannot be compensated for in money fully, adequately and properly. Should any appreciable injury be done to the plaintiffs through any acts of the City in the future, there cannot be much, or any doubt, that it can be easily and accurately measured in damages.

An injunction (Kerr 269) is a remedy against future injury, and the Court will not make the order if satisfied that no such injury is likely to occur. It is not because a man has done wrong that an injunction will be granted against him. The Court must be satisfied of the probability of the continuance of the wrongful act. Where there is no threatened future danger to the plaintiffs' rights an injunction may be refused. If the injury complained of is of a very material nature it is contrary to the practice to give damages in lieu of an injunction. It is, however, in the discretion of the Court; but such discretion must be exercised according to something like a settled rule in such a way as to prevent a man doing a wrongful act and thinking he can pay damages for it.

It cannot, I think, be fairly said that the defendants have acted defiantly, or with a reckless disregard of the plaintiffs' rights. The situation in the fall of 1905, and there does not appear to have been much else to complain of the outside of that period, was a critical one for the City authorities having regard to the large interests to be guarded and protected and it is not matter for much surprise that in such an emergency they overstepped the limit of their powers in respect to the plaintiffs, and gave to the many the benefit of any doubts they may have had as against the few. Apart from that occasion I should say the City generally has exercised reasonable efforts to avoid wrong or injury to the plaintiffs.

The fact, however, that a large population might suffer, unless the plaintiffs' rights were unaided, cannot be taken into consideration by the Court. Kerr 134, and cases cited in note S; also page 414 and note U.

In *Shelfer vs. The City of London &c. Electric Co.* (1895) 1 ch. 287 where there was a continuing nuisance causing structural injury to an adjoining building and an annoyance to its occupants. A. L. Smith L. J. said:—

"It may be stated as a good working rule that damages may be given in substitution for an injunction in cases where there are found in combination the four following requirements, viz: 1, where the injury to the plaintiffs' legal rights is small; 2, capable of being estimated in money; 3, can be adequately compensated for by a small money payment; and, 4, where the case is one in which it would be oppressive to the defendant to grant an injunction." He added, "There may be also cases in which though the four conditions above mentioned exist, the defendant, if acting with a reckless disregard to the plaintiffs' rights, that disintitiled himself from asking that damages may be assessed in substitution for an injunction."

A distinction no doubt exists in respect to covenants and agreements. In such cases the Court goes further in enjoining breaches of them than in other cases of wrongful acts; and this upon the principle that it will not suffer parties to depart from their agreements at their pleasure leaving the party with whom they contracted to the mere chance of damages which a Jury might give; the

object being to bind men's consciences, as far as they can, be bound, to a true and literal performance of their agreements.

The City, as to this principle, stands, I suppose, in the same position as if it were an actual party to the deed of 1846: but looking at the case in the way I have regarded it, I do not feel that I am called upon to apply that doctrine against the City in the present aspect of the facts.

It is not necessary I should express any opinion upon the admissibility or effect of Fenerty's evidence as an alleged expert on some technical matters. I received it subject to objections and tentatively but the controversy, as I regard it, does not in any sense turn upon expert proof.

If Jarvis' report to the Water Co. in August 1845 had any material bearing upon any question necessary to be determined by me, I should probably regard it as evidence against the defendants because it contains information specially sought for from him by the Water Co., as to the condition, nature and extent of their water supply and works; and that in gathering such information he presumably did it faithfully and accurately. It was his duty to report the examinations he made, and therefore he was entitled to record and report everything without which he could not arrive at his ultimate conclusions upon the subjects he was employed to report upon. Moreover the City recognized and acted upon it; see the letter of John A. Bell, Chairman of the Commissioners of Water Supply of the 13th of April, 1863, in reply to that of Hosterman's solicitor on the subject of the water supply and respective rights.

The injunction and declaration sought are refused.

N. H. MEAGHER, J.

Aug. 25, 1908.

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