

George P. Kane }
 vs. } In the Superior
 James S. Suter and } Court of Baltimore
 The Mayor and City Council } City on the Equity
 of Baltimore. } side thereof.

At the execution of the annexed commission, issued out of the Superior Court of Baltimore City sitting as a Court of Equity and to me directed, empowering me to examine witnesses in the above entitled case, J. Henry R. Dulany, the commissioner in the said commission named, having first duly taken the oath to the said commission annexed, met, on the twenty seventh day of November, in the year of our Lord eighteen hundred and fifty eight, at the office of Messrs. Dobbin and Talbot, in the City of Baltimore and State of Maryland, and assigned the twenty ninth day of November in the same year, at ten in the morning, and the same place, as time and place for the examination of witnesses under the said commission; at which last mentioned time and place the commission met, pursuant to notice, and I proceeded in presence of the solicitors of the respective parties to take the following depositions, that is to say:

11th December 1858

Dawson

William Dawson Sr., a witness of lawful age, produced on behalf of the complainant, having first solemnly affirmed, saith and testifies as follows, that is to say:
 That witness is a surveyor by profession. He was employed

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employed some years ago by the Baltimore Water Company to gauge Jones Falls. Is familiar with the Falls and Property on its banks.

The stream is not navigable above Gay street bridge in the City of Baltimore. Rockdale mill is something like three miles above that bridge. He could not tell where high water mark would be on Jones Falls, at Rockdale mill, unless some one showed him where the highest flood had been. With his familiarity as a surveyor he could not tell unless some one had thus showed him. There was no evidence upon the ground from which he could locate the High Water mark.

The difficulty was not the same in the case of a navigable stream because the tide leaves its mark; throws up chips and light stuff.

There is nothing in the description of the ground contained in Complainant's Exhibit No 1. from which, as a surveyor, he could, being on the ground alone, locate the property mentioned in the said Exhibit. It would be difficult to locate it by the description because there was nothing on the ground to show the location, unless he had some body to show him the High Water mark - the ground itself not showing it. Complainant's Exhibit No. 1. was made by him from actual surveys. The Exhibit is a correct Plat of the property mentioned in the proceedings, and of the bed of the Falls.

The points and objects on the Plat were correct.

The distance from Rockdale dam to Whitthall dam is from forty five to fifty perches. Using
the water

Dawson

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the water for Rockdale mill could not affect the supply of pure water to the City, as the tapping for the City supply is a considerable distance below Rockdale dam. After Rockdale mill has used the water, it is returned into the Falls again, a considerable distance above the point where tapping is for City uses.

Crops Examined for Defendants.

Witness understands High Water mark to be the highest point water has reached, or may thereafter reach, during the highest floods. If the points to which the water had reached were given to him he could locate them. He could then locate the margin of the water. If a deed called for a piece of property to begin at a white oak tree, and the tree was gone, he could not locate the tract, if there was no evidence to show its position. If some person pointed out where the tree had stood he could then locate it; Or if some person had put in his hand evidence which would lead to that location, he could locate it. He could not locate of himself without such evidence. He could locate the High Water mark, if he had somebody to point out to him where the water had been, as well as he could locate a tract of land above mentioned when the tree had gone. He could locate any point shown to him in the case of High Water of a lower stage. If he was called upon to survey a tract on tide water calling for High water mark, he would take the ordinary high tide as High Water mark in making the survey, and would not take an extremely high

Dawson

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or low tide. Surveying to High Water mark he would take all the water and all the soil where the description was intended to cover the water. He could locate the lines of the property described in Complainant's Exhibit No 1., as indicated by the water-mark, if a witness would show where the water flowed to. The lines would include all the water and the land covered by the water. In stating in his examination in chief that the City would not be injured by the use of the water by Rockdale mill, he supposed that the quantity of water would not be diminished by its use in Rockdale mill. Does not see anything that would in any way at all pollute the water when used by the said mill. Does not know in what way City taps the water, that is to say, what particular arrangements have been made for drawing it from the Falls. Knows that it is conveyed in pipes of large calibre into the town. If a larger quantity of water than usual is suddenly passed down the Falls than the pipes would convey, the excess would pass by unless there was a reservoir to contain it. If the water is held back and there is not enough to fill the pipes then there would be a deficiency. Any irregularity caused by any artificial means, or a dam obstructing the regular and free flow of the water would affect the regular supply of the City; provided the obstruction amounted to an impediment, in any degree lessening the supply of water to the pipes. Sometimes pipes might get too much at other times too little.

Dawson

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Griffith

Samuel K. Griffith, a witness of lawful age, produced on behalf of the Complainant, being by me first duly sworn on the Holy Evangelij of Almighty God, makes oath, deposes and saith as follows, that is to say;

That he is a miller at Rockdale mill. He went there about the middle of June past. He knows pretty well the property along Jones Falls. There are six dams below Rockdale. 1. The Mount Vernon. 2. Rock-mill. 3. Mount Royal. 4. Sandvale. 5. Salisbury. 6. The City mill dam. The City takes its supply first from Rock-mill dam. The first dam above the Rock-dale is the Clipper-mill dam, formerly called White Hall. The second is Woodbury. They have stopped repeatedly at Rockdale since he has been there for want of water. Clipper mill always stops at dinner time, he believes, for half an hour. At dinner time the waste gate is drawn, which runs the head of water off. In the morning about four o'clock waste-gate is usually shut. At the ordinary stage of the water it is held back until there is sufficient light to start, which, at this time, is between 6 and 7 o'clock. The effect of holding the water and the stoppage by the Clipper-mill is to cause Rockdale mill to stop for want of water - the water being held in the Clipper-mill dam and prevented from coming down. The Rockdale mill has never stopped, since he has been there, while the mills above were running. Last week when the water was so low in
the

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Rockdale dam as to stop the running of the mill, when the water was let on from the Clippers mill, it took the Rockdale dam ten minutes to fill. Tried it twice. The first time it took six minutes. By the natural flow of the stream it might take a little longer. Should suppose that it would take about fifteen minutes ordinarily. At present it would not take any time as the water is running over the dam. Rockdale dam is a very small one. The mill will do work until the water in the dam runs down ten inches below the head of the dam. witness knew Rockdale mill before the twelfth of May. There has been no change in the location of the dam, head-gate, race, waste-gate, fore-bay, water-wheels, tail race, or mill, since the tenth of May.

Griffith

Crop Examined for Defendants.

X Jones Falls is now tolerably full of water. There has been a good deal of rain. The waste-gate of Rockdale mill is not raised when the waste gates of the mills above are raised. It is kept down to fill the dam with water. None runs over while it is filling. The time taken to fill the dam depends somewhat upon the stage of the water. At the lowest stage which he has seen this summer, the water being ten inches below the head of the dam when they commenced filling it did not take over fifteen minutes. When the gate was drawn out of the dam, and the water was two feet below the forebay and between four and six feet below the top

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the top of the dam, it took about an hour to fill the dam.

In Chief again.

Drawing up of waste-gate of which he has spoken took place about week before last, and was done under the direction of Mr. Suter, the water-engineer. The gate was broken as it fell over the dam, and was carried away by Mr. Suter. Dam remained open four or five days. Waste-gate was opened once before, sometime in July, previous to the starting of the mill, for the purpose of clearing out Forebay and head race. It was never opened but on these two occasions.

Griffith

Crop Examined again.

When the waste-gate is opened it makes the water muddy for a little time, but it does not wash the mud out of the bottom of the dam because the waste-gate is four feet above the bottom of the dam. When the Water Engineer opened the waste-gate one of his men started down to shut water off, so as the muddy water should not get into the pipes of the City. He had to shovel the mud out of the Forebay, some of which was thrown upon the rocks, and some into Jones Falls.

The Commission was then adjourned to the thirtieth day of November, in the same year, at ten in the forenoon, and the same place; at which last mentioned time and place the Commission met pursuant to notice, and I proceeded, in presence of the solicitors of the respective parties

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to take the following depositions, that is to say:

Kennedy

William Kennedy, a witness of lawful age, produced on behalf of the complainant, being by me first duly sworn on the Holy Evangelist of Almighty God, makes oath, deposes, and saith as follows, that is to say:

That he is the president of the Mount Vernon Company. The Mount Vernon mill is located immediately below the Rockdale mill. He is acquainted with the mill dam and other appurtenances of the latter. The witness can see no reason why the dam of the Rockdale mill should in any way interfere with the supply of pure water to the City of Baltimore. In his opinion it would take but a few minutes to fill the Rockdale dam, which is a small one, and the Mount Vernon dam being below and being a higher and larger dam, it takes longer to fill it: therefore, if there is any obstruction (which he does not think there is) it would be caused by the Mount Vernon dam, which is lower down the stream. The use of the water by the Rockdale mill does not in the slightest degree affect its purity.

Cross Examined for the Defendants.

The pipes which convey the water to the City are below the Mount Vernon dam. If the water is held up by the Rockdale dam while it is filling, it would affect the supply of the City for a few moments. He imagines that there is always a sufficient quantity of water in the stream to supply

(9)

Kennedy

supply the pipes, even when it is held up by the dams above. He states this as an opinion because he is not located on the stream, and his visits to Mount Vernon mill vary from once or twice a day, to once in every ten days. He thinks that even in the driest times he has seen sufficient water in the stream to fill the pipes, although the same may be held up by the dams above. He has never been to the Mount Vernon mill except when the mills were in operation.

Gambill

Horatio N. Gambill, a witness of lawful age, produces on behalf of the complainant, being by me first duly sworn on the Holy Evangelist of Almighty God, makes oath, deponeeth and saith as follows, that is to say:

That he is now forty eight years of age, and has known Jones Falls all his life. He knows Rockdale mill very well. The dam of this mill does not in any degree interfere with the supply of the City with pure water. It might check the supply in certain seasons of the year, for a few minutes at a time, but could not interfere with the supply. The difference in the size of the Rockdale and Rockmill dams is very slight - he means the difference in the water surface of the two dams. If the Rockdale dam was entirely removed, there would be the same check to the supply of water that there is now, because when the mills above are stopped the Rockdale mill must stop also. All the mills must shut down and open their gates about the same time. This is the case when the mills are using all the water

(9)

Kennedy

supply the pipes, even when it is held up by the dams above. He states this as an opinion because he is not located on the stream, and his visits to Mount Vernon mill vary from once or twice a day, to once in every ten days. He thinks that even in the driest times he has seen sufficient water in the stream to fill the pipes, although the same may be held up by the dams above. He has never been to the Mount Vernon mill except when the mills were in operation.

Gambrell

Morales N. Gambrell, a witness of lawful age, produced on behalf of the complainant, being by me first duly sworn on the Holy Evangelist of Almighty God, makes oath, depone and saith as follows, that is to say:

That he is now forty eight years of age, and has known Jones Falls all his life. He knows Rockdale mill very well. The dam of this mill does not in any degree interfere with the supply of the City with pure water. It might check the supply in certain seasons of the year, for a few minutes at a time, but could not interfere with the supply. The difference in the size of the Rockdale and Rock-mill dams is very slight - he means the difference in the water surface of the two dams. If the Rockdale dam was entirely removed, there would be the same check to the supply of water that there is now, because when the mills above are stopped the Rockdale mill must stop also. All the mills must shut down and open their gates about the same time. This is the case when the mills are using all the water

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water in the stream that passes them; when the water is in excess all the mills can work without reference to each other. It is difficult to define High Water mark on Louis Falls. The difference between low and high water mark is from six to eight feet. The stream rises more or less in different places in proportion to the surface over which it is spread. When Rockdale mill dam has run down so low that it is no longer profitable to grind in the mill, it takes from five to fifteen minutes, in proportion to the flow of the water, to fill the dam so that the mill may grind with profit.

Crops Examined for the Defendants.

Gambrell

Witness has never timed the filling of the pipes to convey water into the City. They are submerged and cannot be seen. He knows as a fact that the supply of water is sometimes slightly checked, but it is not in any way diminished. There is always a larger quantity of water in the stream than is necessary to supply the pipes. The use of the water by the dams above does not, in his opinion, affect the quality of the water at all.

In Chief Again.

The Rockdale property, so far as the fixtures for using, and the mode of using, the water, are concerned, is in every respect in the same condition as when owned by Touge. The Clipper mill is owned by William C. Hooper and witness, as likewise the Woodbury mill.

Donaldson

Artemus Donaldson, a witness of lawful age, produced on behalf of the Complainant, being by me first duly sworn on the Holy Evangelists of Almighty God, makes oath, deposes, and saith as follows, that is to say;

That he lives at the Clipper mill, lately called the White Hall mill, and is the manager of that mill. Last Friday, November the twenty sixth, Mr. Griffith, the miller at Rockdale called on witnesses, to see what time it took the water flowing from the Clipper mill to fill Rockdale mill dam. The water in Rockdale dam, at the time, was so low that it was not profitable to grind, that is to say, about ten inches below the head of the dam, and from the time when the water was released from the Clipper mill as in the ordinary mode of running the mill, until the Rockdale mill dam was filled up to the point at which it is usual to begin to grind, it took between five and seven minutes. In the ordinary working of the Clipper mill, they shut down for half an hour in the middle of the day only. When they stop work in the evening, they open the gates and let the water pass.

Warfield

Daniel Warfield, a witness of lawful age, produced on behalf of the Complainant, being by me first duly sworn on the Holy Evangelists of Almighty God, makes oath, deposes, and saith as follows, that is to say;

That he was the owner of the Rockdale mill

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mill for several years. He has known the stream and the mills upon it from the time he made the purchase, which was somewhere in the neighbourhood of the year 1847. From his knowledge of the use of the water by the Rockdale mill, he does not think that such use could interfere with the supply of pure water to the City of Baltimore; since when the mill is running it passes through the mill, and when not, it passes over the dam. He does not think that such use affects the quantity of the supply; upon that point, however, he has no special knowledge.

Crop Examined for Defendants.

Wasfield

The Rockdale property, at the time of his purchase, consisted of a little over twenty acres of land, a flour mill complete for grinding grain with two run of stones, a fair sized house for the mill, and a factory house used at the time of his purchase in connection with the mill as a place of deposit for flour; the same having been built for a factory but there never having been any machinery in it. There were also upon the property three small wooden dwelling houses and a stable.

He sold the above property to William ^{Maxon} for \$24,000. This was the fee simple price, but \$5000 of the purchase money was left on the ground rent. He thinks that Tonge purchased the property at \$24,000 - land being subject to the ground rent of \$5000.

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of \$5000. When the property was condemned the mill and factory had been burnt down. When he was the owner, he insured the mill for ten thousand dollars. He does not know whether or not there was any insurance upon the mill when it burnt down. In his judgment, the property, as a milling site, without any improvements, except the dam, would be worth from twelve to fifteen thousand dollars.

In Chief Again.

Wasfield

The property in the neighbourhood has increased very much in value, since he owned the mill, from various causes. The opinion thus expressed has no particular reference to the want of the property by the City, but is founded upon the general appreciation of property in the neighbourhood.

Cross Examined again for the Defendants. Cannot tell the cause of the enhanced value of property, in the neighbourhood of Rockdale mill, except it be the increased demand for it.

The commission was then adjourned to the first day of December, in the same year, and the same place; at which time and place, the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

O'Donnell

Columbus O'Donnell, a witness of lawful age, produced

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on behalf of the Defendants, being by me first
duly sworn on the Holy Evangelist of Almighty
God, makes oath, deposes, and saith, as follows,
that is to say;

That the City takes the water from
Rock-mill dam by pipes of thirty inches
diameter. Witness was president of the old
Water Company for twenty years. The pipes were
laid from the Rock-mill dam. Formerly the
supply of water was drawn from the Salisbury
mill dam; and afterwards from the Mount
Royal. Then the supply was stopped at
all the other points, and all the water was
taken from the Rock-mill dam. He found
that when the mills above shut down their
gates for the purpose of filling their dams,
that then, in consequence thereof, the pipes
at Rock-mill dam had no water to supply
the City, during the filling of the dams.

O'Donnell

This observation applies to Rockdale dam,
as well as to the others - to all the dams
above. The object is to supply the City with
clear water. During a rain, and some
days thereafter, the stream is so muddy
that we are obliged to stop off the water
running from the Falls into the reservoirs,
and we frequently have to run down the
reservoirs to within two or three feet of
the bottom before the water clears. When
the water is sufficiently clear we open
the gates at Rock-mill, and let the
reservoirs fill; which frequently takes
two or three

(15)

two or three days; during which time, in the summer, when the stream is low, it requires nearly all the water in the Falls to fill the reservoirs. When the dams are run down and then are filled more or less sediment must pass down into the pipes; for which reason we formerly restricted the mills above belonging to the Water Company, and now the Rock-mill is restricted, from running the water down below the top of the dam, whenever the City thinks proper. Every dam when the water is stopped for the purpose of filling it prevents the same from coming down. When the mill is started, the water comes down in a larger quantity than the supply necessary for the City - than pipes will take in; the surplus water passes away to the basin and is wasted. In the summer, during a drought, we have had considerable trouble in consequence of the water being held up by the dams above. If the consumption of water by the City is increased it will be absolutely necessary for the City to have the control of the dams above the one from which the supply is taken. He estimated the water power at Rockdale mill, basing his estimate upon the market price, six or seven years ago, at one thousand dollars per foot. This was considered a fair price. He does not think, that, for milling purposes, the property is worth more than that now. Mills are renting for less than they did six or seven years ago.

O'Donnell

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Cross Examined for the Complainant.
The supply from the Rock-mill dam is the same which was had by the Water Company before the sale of the property to the City. The plan of supplying the City with water at present contemplated, and which is now being carried out, and in furtherance of which the condemnations on the stream have recently been made, is to supply the City with water taken from the Falls at Pratie's Powder works; which are about six miles from the City. The water is to be taken from the dam to be formed at Pratie's Powder Works to a reservoir to be constructed on the property purchased from Stone (which is about two miles from the City); and thence partly directly into the City, and partly into the Mount Royal Reservoir. This reservoir is from twelve to fifteen feet deep, he believes. The distance from the Rock mill dam where the water enters the pipes, to the Mount Royal Reservoir, is about four thousand feet. When the reservoir is full, the surface of the water contained therein, is ten feet below the surface of the water in Rock-mill dam. Mount-Royal Reservoir will contain, he supposes, about twelve or fifteen millions of gallons. The dam above would prevent the water from flowing into the pipes which supply the City, when they are run down

C. Donnel

(17)

(17)

run down, and the water is stopped off, for the purpose of filling them. Those nearest to the point of supply will affect it most injuriously. There is one dam between Rockdale and Rockmill - the Mount Vernon Factory dam. It would still be necessary that the City should have control of the Rockdale dam, even if it had not the control of the Mount Vernon dam; because during the time they are filling the Rockdale dam the supply of water to the City will be stopped. If all the dams stop at the same time, and all fill at the same time, then their action would be equivalent to the action of one dam alone; provided they all use the same amount of water. The river knew such a state of things to exist since the quantity of water required by one mill is greater than that required by another. Does not know whether or not the City has the control of the water as used by the Mount Vernon Mill - river having seen the deed conveying the same. He has no knowledge of any complaint, by, or on behalf of, the City to the owners of the Mount Vernon with reference to the water. Mr. Suler, the water engineer, may have made such a complaint; but there has been no report of any such, to his knowledge made to the Water Board. Since the City has become the owner, he has never known the City to require Mount Vernon

O'Donnell

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Bernon Factory to use the water in any other way than it had been accustomed to be used, because of the injurious effect of such use upon the City's supply. He, however, has not the management of the works. Mr. Suter manages them. Mr. Suter commenced to open the dam at Rockdale by the command of a Committee of the Water Board, of which witness constituted one. The instructions given to Suter were in writing (the complainant demands a copy of the said instructions). The City ordered the dam to be torn down, because, it had purchased the property, and considered that it had a right to take down the dam.

O'Donnell

The following question and the reply thereto is inserted in full at the request of the counsel for the complainant. At the time the destruction of the dam was commenced, was it necessary to destroy the dam, because the City was suffering from a want of water which the destruction of the dam would remedy?

Ans. The destruction of the dam was not absolutely necessary to the use of the water by the City at that time. The top of the supply pipe at Rock-mill dam, is about three feet below the top of the dam. He does not recollect what is the flow of the Falls per diem at Rock-mill, or any other point near the City; but Slade's Report will show it.

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it. In the ordinary action of a mill wheel, no injurious effect of any amount is produced upon the quality of the water, with reference to the City's use of the same. The wheel may stir up some sediment, but that soon passes off. At the time the Water Company introduced water into the City, they had no control over the use of the water by the Mount Vernon, except, under the general law which prohibited the pollution of the Falls. At present the City is the absolute owner, from Rock-mill up, of Hambleton's mill, and the Rural-mill. The City, since it has become the owner, has taken down no dams. Hambleton's mill is about four miles from the Rural-mill, and the latter is next above the Woodbury mill. Woodbury is the second above the Rock-date mill. It is necessary that the City should have the control of the Mount Vernon dam, but he does not think it necessary that the dam should be taken down: it is sufficient for the City to have the control of the gates. He does not think it more necessary that the City should have the control of the Rock-date dam gates, than the gates of the Mount Vernon dam. Considers it equally as necessary to have the control of the one as the other, since there is very little water comes in between

O'Donnell

(20)

O. Donnel

between the two dams. If the water in the Falls is clear, the filling of the dams and letting it out, will not, to any great extent, muddy the stream. There is no other injurious effect produced upon the quality of the water by holding it up and then letting it off, except the evaporation.

The commission was then adjourned to the second day of December, in the same year, at ten in the forenoon, and the same place; at which last mentioned time and place the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

Dawson

William Dawson Sr., a witness of lawful age, produced on behalf of the Defendants, having already duly affirmed as a witness in the cause, states and testifies as follows, that is to say;

That the facts stated, by his certificate upon defendants' Exhibit No. 1. Plat. No. 1., are correct. The defendants' locations of ordinary High Water mark embrace the same land and water as is described in the return of the inquest had upon Forge's property by the Mayor and City Council of Baltimore. The land

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land laid down upon the Complainant's Plat, Exhibit No. 1, and shaded yellow, is the property of which Samuel D. Tonge was possessed at the time of the inquisition, being held upon his property by the Mayor and City Council of Baltimore, and in the same tract which is referred to by Thomas Sanahan, as the land conveyed by Taggart, trustee, to Tonge.

Dawson.

Cross Examined for Complainant.

When the calls in a deed, in Maryland, call for High Water Mark, the location is made by reference to ordinary high water mark, and not to the highest point to which the water has ever been known to rise.

Sanahan.

Thomas Sanahan, a witness of lawful age, produced on behalf of the Defendants, being by me first duly sworn on the Holy Evangelists of Almighty God, makes oath, deposes, and saith as follows, that is to say;

That the advertisement contains a description of the property which he sold to Kane, as trustee of Tonge. The Property was sold to Kane at Public Auction for eight thousand five hundred dollars. The terms of a sale will appear by a reference to the advertisement.

(22)

Lanahan

4 Crops Examined for Complainant.
Witness, at the time of the sale, understood that he sold everything that Mr. Tonge had - all his interest - whatever rights Tonge had in the Property or water. He did not represent any thing except what is contained in the advertisement. Witness has an indistinct recollection of a conversation with Kane at the Exchange, on the day of Sale, upon the subject of the water rights belonging or not belonging to the property to be sold, of that conversation he has no particular recollection; but witness is satisfied that he said nothing upon the subject calculated to depreciate the Property, or appreciate it more than it was worth.

The commission was then adjourned to the third day of December, in the same year, at ten in the forenoon, and the same place; at which last mentioned time and place the commission met, pursuant to notice, and I proceeded in presence of the solicitors of the respective parties, to take the following depositions, that is to say:

Clark

Levin P. Clark, a witness of lawful age, produced on behalf of the Complainant, being by me first duly sworn on the Holy Evangelist of Almighty God, makes oath, deposes, and saith as follows, that is to say;

To the first of Complainant's written interrogatories

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1. - "Have you been in the service of the City, in connection with its water-works; if so, state how long, and what your duties were" -

That he was in the service of the City three years and two months as the first assistant Commissioner. His duties were to attend to the mill-dams, and the repairs under the direction of the present water-commissioner.

2. To the second of the said interrogatories - "What is your opinion, based upon your actual experience, as to the influence of the Rock-dale mill dam, as it now exists and has existed since you have known it, and the use of the Rock-dale mill for grinding flour upon the supply of water to the City" - If witness was to control the gates of Rock-dale dam himself, he does not see any way in which he could use the water, so as to affect injuriously, to any amount, the supply of water to the City.

Clark

3. To the third of the said interrogatories - "Is it necessary, in your view, either with reference to the quantity or quality of the supply of water to the City, to move the Rock-dale mill dam" - Witness cannot see any such necessity.

To the fourth of the said interrogatories.
4. - "When does the City sustain the greatest ^{inconvenience}

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inconvenience in obtaining its supply of water, at a period of drought, or at a wet season when the Falls are raised; state your reasons for the opinion you give-

In dry seasons all the water in the stream, being clear, can be used. In a wet season none at all is used, so long as the water is discoloured. When the water clears after a rain the supply is greatest and so continues until evaporation begins to diminish it - then the flow of the stream is from eighty to a ^{hundred} million gallons ^{per day}; which gradually diminishes to twenty five millions of gallons; and that is the lowest flow he has ever known at Rockdale mill dam.

Clark

To the fifth of the said interrogatories,

5. "Does the city ever take the whole of the water afforded by the Falls, so that none whatever passes by the main at Rock-mill?" It never did during the time of his service to the City.

6. To the sixth of said interrogatories,

"How many hours out of the twenty four, is the main pipe open at Rock-mill dam for the purpose of restoring the daily consumption by the City - What part of the City is supplied from the Mount Royal Reservoir, and what is about the average consumption per day?" The time of keeping open at Rock-dale dam depends upon the height to which the gate is raised. If it is raised one fourth

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it remains open three or four ^{hours} ~~respective~~.
If raised one third it is kept open
a proportionately shorter time. It never
remains open all the time. The whole City
is supplied from the Mount Royal reservoir;
the lower part by natural flow; the upper
part by pumping from Mount Royal reservoir
into the Chase Reservoir. The average
supply of the City is from three to four
millions of gallons per diem.

Crop Examined for the Defendants.

It would be important that the City should
have the control of the dams, if as many
were put upon the Falls as could be put
there. It is important for the City to have
control of the dams that are there. City uses
the stream of Lower Falls now for the purpose
of obtaining a supply of water - does not
mean the whole stream, but such part
as it deems necessary.

The Complainant here filed Exhibits
Nos. 3, 4. (the handwriting of which was
admitted to be that of Mr. Stenerson, who
was admitted to be the Registrar of the
Water Board 1, 5, 6, 7, 8, 9, 10; which said
Exhibits are attached to this commission.

Manning

Manning, a witness of lawful age,
produced on behalf of the Defendants,
being by me first duly sworn on the
Holy Evangelical of Almighty God, makes
oath

(26)

oath, deposes and swears as follows, that
is to say;

That he is employed by the City
as the Chief Engineer of the New Water
Works. The City is now in the occupation
of Jones Falls, for the purpose of supplying
itself with water. Does not know how far
above the bottom of the dam the top of the
supply pipe at Rock-mill is. A supply
of water perfect and efficient at all seasons
for the City depends upon its having control
of all the dams or artificial obstructions
above the Rock-mill, where the supply
pipe is.

Manning

Cross Examined for the Complainant.
His duties are limited to the ~~xxx~~ new -
water-works he has nothing to do with
the water-works, as at present existing.
Mount Royal reservoir and Chase reservoir
will, eventually, be done away with. Conceding
that the City had control of all the dams
above Rock-mill, he considered that such
dams would be a decided benefit, for
purposes of storage. In a dry season the dams
answer to store up showers of rain, which
would otherwise pass off into the basin.
The City, then, having control of the dams
could suffer the water to pass off as it
would be needed.

In Chief Again.

If the dam, where the supply pipe is, is
full, and then the water is permitted to
flow from the dam above, it would pass over ^{the} ~~the~~

Manning

lowis dam, and be lost. The purpose of the new water-works is to furnish a supply to points in the City, which heretofore had no supply. Some of these points, particularly Madison Avenue, are densely populated. It will be more and more necessary that the City should have control of the dams, in a ratio as the supply and demand approach each other.

Boggs.

John G. Boggs, a witness of lawful age, produced on behalf of the Defendants, being by me first duly sworn on the Holy Evangelist of Almighty God, makes oath, deposes and saith as follows, that is to say:

The City supplies, the first January, 1856, were ten thousand four hundred and forty two. At the present time, up to the first of December, they have amounted to twelve thousand nine hundred and seventy nine. A supply is the quantity of water taken by each person. Sometimes one hydrant supplies from three to four, to a dozen families, in which case each family is counted as a supply. Increase of supply will give the increase of the water used. If in 1856 there were four millions of gallons used, the increase of the quantity to be used will be in proportion to the increased supply.

Henry R. Wilcox
Commissioner