

File No. 9981 Continued.

OPINION.

years ago, which still perform their functions properly, and to require property owners to construct new connections, at an expense of perhaps \$12.00 or \$15.00 a piece, simply to carry out this policy.

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I am advised by the Water Department that there is no record of any contract entered into with the property owners, at the time the mains in question were laid, but probably applications were signed by the property owners similar to those in use today, samples of which are herewith enclosed. If such a form was used it might possibly be construed to be a contract between the City and the property owner, to furnish water from the mains then laid.

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Doubtlessly the City has a right to make reasonable changes in its water mains, when the same are required for the public health or convenience, or perhaps by the necessities of the system of pipes in use; but doubtless the City would not be entitled to make capricious or unreasonable changes which involve unnecessary expense to the property owners.

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I should, therefore, be reluctant to advise the Water Department as a general proposition that all pipes laid under back yards may be cut out, and property owners compelled, at all events, to connect with other mains.

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Upon consulting with the officials of the Water Department, I could learn no reason for the proposed change, except that it was inconvenient to the Water Department to have its mains laid under private property. The answer to this might be, that the Water Department should have foreseen such inconvenience thirty years ago, when it laid the mains. It was also stated that it was impossible to construct proper devices to cut off the supply in case of necessity, as where the property owners failed to pay their bills, and that were such device installed, and the supply cut off, the property owners could readily re-establish the connection.

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All these matters are proper to be considered, but in my judgment, were the question raised by a bill for injunction, a Court of Equity would undertake to review the action of the Water Department and ascertain whether its motives were reasonable, and whether the public welfare justified the change.

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In conclusion I would advise the Water Department that in the case presented by the enclosed sketch, they will be entitled to make the change shown by the pencil line. By so doing one main will be made