

facts, but merely that the result of 24 hours' pressure averaged so much. Is this sufficient to shew what the respondents allege, namely, that they were shut out when the pressure was below fifty pounds?

On the whole, therefore, notwithstanding that the appellants' manager admits that the regulator was the bar to admission (and a rightful bar, if used in relation to the earlier contract), I think his point is well taken that an average of 24 hours is not a definite proof of unequal pressures at the same time. Aikens admits (pp. 20 and 26) the irregularity of pressures at specified times during the day and night. Nor is there sufficient proof that the average pressure in the appellants' pipe, though lower than that of the respondents, was not the proper pressure, having regard to that of the gas under the Waines contract and that of Aikens, Lalor & Beck. If as said by Aikens (p. 10), that the regulator was only opened to admit the amount the appellants took, it may have been quite right to allow such a margin as to keep within the terms of the Waines contract. It may be that the amount taken was less than fifty pounds, but we are left in the dark as to whether this was not a reasonable precaution, having regard both to the Waines contract and that of Aikens, Lalor & Beck, under which their gas was to be supplied at a pressure sufficient to enable delivery to be made to the customers.

Nor am I satisfied with the conclusion that all that the respondents claimed was lost to them by suction into the other wells. If the respondents' theory is correct that they were keeping a strong head at the appellants' meter house continually, then the same gas could not be flowing in the other direction at the same time. The density of the gas at the regulator and consequently the pressure, was no doubt increased, but could only be kept up by continued pressure, but if that pressure was constant the gas would cease to flow toward that point after the density became too great. Under these circumstances, it could not all have escaped as found by the Master, and we have no means of telling how much did so. The records of the Waines wells at Darling road (Ex. 19) shew a higher pressure there than from the appellants' wells, which, according to Mr Aikens, would tend to make the flow from Waines' to the respondents' wells rather than the other way. This is inconsistent with the earlier conclusion.