

SUTHERLAND, J.

OCTOBER 17TH, 1911.

NORFOLK v. ROBERTS.

Municipal Corporations—Waterworks—Board of Water Commissioners—By-law—Alteration by Resolution—Invalidity—Water Rates—Discrimination—Evidence—Costs.

Action by a ratepayer of the town of Brampton, on behalf of himself and all ratepayers and consumers of water in the town, except the defendants, for a declaration that the resolutions, by-laws, and regulations of the Board of Water Commissioners in Brampton were invalid in law, and for a mandatory order to the Board to enforce payment of an equal rate from all consumers.

B. F. Justin, K.C., for the plaintiff.

E. D. Armour, K.C., for the defendants the trustees of the Dale estate.

T. J. Blain, for the remaining defendants, except Boulter.
The defendant Boulter in person.

SUTHERLAND, J. (after stating the nature of the action) :—
In or about the year 1881, the Corporation of the Town of Brampton established therein a system of waterworks, deriving their supply from a small lake about five miles from the town: see 41 Vict. ch. 26 (O.)

While the statute authorised and contemplated the election of commissioners to manage the waterworks system, no such commissioners were elected, but the waterworks system established was managed by a committee of the municipal council.

The committee apparently fixed a schedule of water rates to be charged and levied against users of water in the town. It does not, I think, appear very definitely in the evidence what these rates were before the 9th September, 1901. On that date, by-law No. 250 of the municipal council was passed, and contains the following sections:—

“1. That water be supplied for house, bath, and lawn for the sum of \$12 per annum, payable quarter in advance.

“2. That all other by-laws inconsistent with this by-law be and the same are hereby repealed.

“3. This by-law shall take effect from and immediately after the passing thereof.”

This by-law continued in force until the 30th September, 1903, when another by-law, No. 272, was passed and came into