MIDDLETON, J. APRIL 4TH, 1914

CHADWICK v. CITY OF TORONTO.

Nuisance—Noise and Vibration from Operation of Electric Pumps—Evidence—Depreciation in Value of Neighbouring House—Acts Authorising Municipal Corporation to Construct Waterworks not a Justification of Nuisance—Necessity for Pumping Water for Municipal Purposes—Damages in Lieu of Injunction.

Action to restrain an alleged nuisance.

The action was tried without a jury at Toronto on the 20th and 21st March, 1914.

H. E. Rose, K.C., for the plaintiff.

G. R. Geary, K.C., and Irving S. Fairty, for the defendants.

MIDDLETON, J.:—The plaintiff claims an injunction restraining the operation of certain electric pumps at the high level pumping station on Poplar Plains road, Toronto. The defendants have for many years owned and operated a high level pumping station at the place in question. Originally there were only two comparatively small pumps, capable of delivering three and one-half million gallons each per diem. These were reciprocating pumps, driven by reciprocating engines, and the noise produced was not sufficient seriously to interfere with the comfort of persons living in the neighbourhood.

Two much larger reciprocating steam pumps were added to the plant in 1906. These were capable of pumping six million gallons each. Although these made a good deal more noise, their operation is not sufficient to constitute a nuisance calling for legal interference.

Early in 1912, eight electrically-driven pumps were installed, capable of delivering a very much larger quantity of water. These are not all operated at once, but from the moment of their installation they have been found to interfere seriously with the plaintiff's comfort. Instead of the comparatively slow motion of the old pumps, these operate at a speed of between 721 and 750 revolutions per minute; the result being a vibration which is felt, as well as a humming or buzzing noise which is heard.

The different pumps are not run at precisely the same speed, so that the noise produced is a discord, resulting in pulsations