

1875) had a right to be served from these village waterworks, it would be a long step towards the attainment of plaintiff's suit. I find no trace of the existence of any such right as a legal claim vested in any one who was not an inhabitant of the local municipality of Yorkville. . . .

The property of Mr. McMaster was in the state of intermediate grounds and lands lying between the reservoir and the village, through which the line of pipes conveyed the water from the high land to the lower levels of the village. But, being outside of the municipal limits, there was no beneficial or actual usufruct of the water itself attributable to this mere vicinage to the main service pipe proceeding from the reservoir to the village. Whatever permission, easement, or privilege in the use of the water was conceded to Mr. McMaster, it was a revocable and voluntary concession or contract—not binding upon the original corporation (the Yorkville Waterworks Co.), and indeed not within the purview of its corporate powers.

Now, as the stream cannot rise higher than its source, no more can the claims of a part purchaser of the McMaster estate transcend those of its first proprietor in regard to the water service of the village, now vested in the city of Toronto. . . .

The Toronto authorities had power to discriminate as to non-residents of the city, and to supply water on special terms as to them, in a manner which might not obtain as to resident consumers: *Attorney-General v. City of Toronto*, 23 S. C. R. 519. . . .

It is not till 1891 that water is supplied through the city to Mr. Janes, the predecessor of the present plaintiff. . . . It does not follow, because the city may have agreed to supply McMaster for some undisclosed consideration, that the like privilege is to be extended to the owners of the various subdivisions of his property. Domestic service of water was, however, supplied, and, it is to be assumed, in the ordinary way as to outside consumers, to Mr. Janes in 1891, and that has been continued to the present plaintiff, on payment of the rates fixed by the city.

But I see no reason for holding that the city could not at any time end the arrangement and refuse to supply water on any terms to those who could not assert the rights of citizenship. The city had power to pass the by-law to cut off the supply on six months' notice to these outsiders, and power to amend that so as to provide for giving no more than 48 hours' notice or no notice, so far as municipal and statutory power is concerned. . . .