

leges and waters which shall be ascertained, set out, or appropriated by the company for the purposes thereof as aforesaid, shall thereupon and forever after be vested in the company."

By an amending Act of 1892, passed April 23, 1892, the provisions of the principal Act as to appropriation and diversion (but not vesting) were extended so as to embrace Goldstream River and its tributaries, except that there is no vesting clause similar to that contained in said s. 10. It is also provided that the power to divert and appropriate water from this river and its tributaries is to be subject "to any grant of rights, privileges or powers arising under the provisions of the corporation of Victoria Water Works Act, 1873"; and by s. 9, that nothing in the Act is to be construed as in any way limiting or derogating from any grant or privilege accorded to the city under the provisions of the said Act. By s. 10 it is stated that the powers as to Goldstream are conferred only on the condition that the company will supply, on terms which are specified, a maximum quantity of 5,000,000 gallons per diem to the city if so required.

The company in 1892 commenced operations on Goldstream River by clearing the banks, and building dams for the purpose of making reservoirs, and making other improvements. In 1897 the Water Clauses Consolidation Act was passed, by which all unrecorded and appropriated water and water-power, declared by the Water Privileges Act, 1892, to be vested in the Crown, were brought under one comprehensive code for administrative purposes. Between 1892 and 1898 the company had purchased from various owners the lands along the Goldstream River and contended in the action that it had thus become entitled to the riparian rights of such owners.

*Held*, that the Water Privileges Act, 1892, vested in the Crown the right to the use of all the water in Goldstream River. The company Act of 1892, merely gave it a right to take what was necessary for its purposes, and by taking possession of the source of the river it could not claim the exclusive use of the water from the source of the river to its mouth. The Water Clauses Consolidation Act, 1897, was intended to control the acquisition and use of waters not appropriated on or before June 1, 1897, and prescribed a method by which the right to use such waters, as well recorded as unrecorded, could be obtained. The Act intended that existing companies should be limited strictly to their corporate powers.

The purchase of lands by the company gave it no greater right than the owners possessed, viz.: a right to the uninter-