

By sec. 6, the lands, privileges, and water, which shall be appropriated by the commissioners, shall thereafter be vested in the corporation of the town, with power to construct, erect, and maintain in and upon such lands all such reservoirs, waterworks, and machines requisite for the undertaking, and to convey the water thereto and therefrom in, upon, or through any of the grounds and lands lying intermediate between the reservoirs and waterworks and the lake or pond where the same are procured by the town by one or more lines of pipes, with power to enter upon the lands and to cut and dig up the same, and to lay down the pipes, or for taking up, removing, or repairing, or altering the same and in and upon the highways within 6 miles of the town.

Immediately after the passing of the Act in 1878 the corporation entered upon the lands hereinafter referred to, and proceeded with the construction of a system of waterworks, bringing their supply of water from "Snell's Lake," which is within 6 miles of the town. The pipes were put down in a northerly direction from the town across the east half of lot 14 in the 2nd concession, and for a short distance through the east $66\frac{1}{2}$ acres of lot 15 . . . until the pipes entered Snell's Lake, the waters of which covered nearly the whole of the $66\frac{1}{2}$ acres, and also about 2 acres of lot 16 owned by the applicant.

Robert Gardner was at the time of his death in 1870 the owner of lot 14 and of the $66\frac{1}{2}$ acres of lot 15. By his will, dated in October, 1870, he devised these two parcels (together with other lands) to his wife for life, and after her death to be equally divided between the children of his brothers Luke and Joseph Gardner, and of his sister Catherine Watkins, and the children of his deceased sister Sarah A. Hutchinson. Thomas Holtby, Joseph Gardner, and Marietta Gardner were appointed executors and executrix, and given power to dispose of all the property if they thought proper.

At one point of the line the pipes were improperly laid in the trench, creating a ridge, called a "hog's back," in the pipe line, thus impeding the flow of water from the lake to the turn. To remedy this, the commissioners . . . in 1891 opened up the trench and lowered the pipes to the same level at that point . . .

Marietta Gardner died on 1st January, 1902. On 10th March, 1902, Thomas Holtby, the surviving executor of . . . Robert Gardner, deceased, was removed from his