CITY LOSES THE WATERWORKS CASE

Exact Terms of the Judgment However Are Not Yet

Securing of Water Supply for the cussed Last Night.

(From Thursday's Daily.) The privy council has allowed the of the Esquimalt Waterworks Company against the city in the water litigation, but the exact extent and effect of the judgment is not yet known with full certainty. City Soll-citor Mann has sent a code to London to be used in the transmission of the result, but by some oversight this code was not used, and one or two words in the code message actually received are not clear and Mr. Mann has telegraphed back to London for an explanation. The message as received leaves a possible doubt as to whether the victory pany is as sweeping as was generally supposed yesterday. The text of the supposed yesterday. The text of the for the company to construct, erect cable has not been given out, and will and maintain in and upon said lands not be till full explanations of the all such reservoirs, waterworks and obscure passages have been received. machinery requisite for the said under-There is a possibility, though no more than a possibility, that when the cable has been fully interpreted it will be found that one at any rate of the city's

contentions has been sustained. The city solicitor was present at the secting of the city council held last light, behind closed doors, and explained the difficulty arising from the mistake in the code message, but the exact nature of the difficulty was kept a close secret, and the press was rigorously excluded. The meeting then a close secret, and the press was better effecting the purposes aforesaid rigorously excluded. The meeting then the company and their services are went on to discuss the situation as it presented itself in the light of the important of the purposes aforesaid the company and their services are hereby empowered to enter and pass presented itself in the light of the important of the purposes aforesaid and the lands intermediate as aforesaid and the

perfect information before it, and for lands intermediate as arbresaid and the the purposes of the meeting it was described to disregard any possibilities in the direction of Goldstream.

Turning to other possible sources of water supply a considerable difference of opinion developed, but it was generally felt that further information or other passages of the said town of was required before any definite described in the public ways, streets, lanes or other passages of the said town of was required before any definite described. of opinion developed, but it was gen-erally felt that further information was required before any definite deesion could be arrived at. According- and under the lands and premises of ly it was agreed that a motion should any person or persons, bodies corpor-be brought forward at the special ate, politic or collegiate whatsoever, meeting of the city council which is to and to set out, ascertain, use and be held this evening providing for the pushing forward of the Sooke lake sur-vey, funds for which were provided in a bylaw recently passed for that

council further decided to call in all the best expert help available to assist them in solving any technical problems that may present them-selves. Expert Adams will almost cu-tainly be sent for and other expert tainly be sent for and other expert opinion will be consulted if it is con-

Justice Duff Upheld.

The judgment rendered by the Hon.
Mr Justice Duff in the case of the
Esquimalt Waterworks Company against the municipality of Victoria in which the company opposed the right of the municipality to apply to the government for certain water records in connection with the waters of Gold-stream and its tributaries, which is now reinstated by the action of the judicial section of the privy council

At the original trial Mr. Bodwell, K. C., and W. J. Taylor, K. C., appeared for the city, and Hon. F. Peters, K. C., and A. P. Luxton, K. C., for the com-

The effect of the decision, in brief, if it is as sweeping as first indicated, is that the city cannot under any subsequent statute without acquiring the rights by purchase or otherwise assume to interfere with or diminish the rights granted the company under a special statute conferring franchise rights and privileges upon the company

The plaintiff company sued to restrain the defendant municipality from proceeding with applications to the Lieut.-Governor-in-Coundit for a grant of water records authorising the diversion of water from Goldstream river and its tributaries under the Water Clauses Consolidation Act of 1897 for the numerical consolidation act. 1897, for the purpose of supplying water to the inhabitants of the muni-

water to the inhabitants of the muni-cipal area.

The company's case rested upon the contention that it had acquired rights in these waters which would be invad-ed by the granting of such records and that there is no authority under the statute to make any grant having that

The judgment discussed at length the bearing of the clauses of the Water Clauses Consolidation act and the Water Privileges act of 1892 upon the rights of the parties to the action. Prior to rendering judgment the learned judge proceeded to consider the nature of the rights acquired by the company in the streams in question tas if those rights fell to be ascertained without regard to the provisions of either of these enactments.

Appeal Allowed

In allowing the appeal, Mr. Justice Inying held that the plaintiff application should be dismissed. "The detendants are entitled," he said, "to a declaration that they have the right to take the unrecorded waters under the Water Clauses Consolidation act, 1855, 1897, also the right to take the water of Goldstream under the act of 1873."

Mr. Justice Morrison held that the waters of Goldstream were unrecorded waters and open to record by the Appeal Allowed

eccupy such parts thereof as they, the company shall think necessary and proper for the making and maintain-ing of the said works or for the open-

Esquimalt and in upon, through over

same and for the purchasing of lands required for the protection of the said

works or for preserving, the purity of

their water supply, or for taking up, removing or altering the same and for distributing water to the inhabitants of the town of Esquimalt and the said

community or of the proprietors or occupiers of the land through or near which the same shall pass and for this purpose to sink and lay down pipes, make reservoirs and other conveni-

in the position or construction thereon as to the company shall seem meet

doing as little damage as may be in the execution of the powers hereby granted to them, and making reason-

able and adequate satisfaction to the

proprietors to be ascertained in case of

lispute by arbitration as aforesaid and

all such waterworks, pipes, erections and machinery requisite for the said undertaking shall likewisa be vested in and be the property of the com-

This act was in 1892 amended by

This act was in 1892 amended by a statute which enacts in section 1:

"The Esquimalt Waterworks Act, 1885, shall be so construed as to give power to the Esquimalt Waterworks Company to divert and appropriate so much of the waters of Goldstream river and tributaries as they may deem suitable and proper, subject to any grant of rights, privileges or powers arising

city of Victoria at any time so desire, the council of the corporation may by resolution, notify the Esquimalt Wa-

terworks company to furnish them with a supply of water from the works of the Esquimalt Waterworks company and it shall thereupon be ob-

under the provisions Waterworks Act, 1873."

In order to give finality to the case, the Esquimalt Waterworks company appealed from the judgment of the Full court direct to the privy council. The case came up for trial the first week in July with the result just announced.

Waterworks Act, 1878."
In section 5:
"'All the rights, powers and privileges conferred on the said company by Esquimatt Waterworks Act, 1885, shall extend and apply to the appropriation and diversion of the waters of the Goldstream river and its tributaries and also the conveying of such waters from the place or places of diversion to the town of Esquimalt Earl of Reslyn Appeals. London, July 31.—The Earl of Ros-lyn announces that he has instructed his attorneys to appeal against the divorce granted his wife by the Scottish court. The ground for the appli-cation is not stated. The Countess of Roslyn was formerly Miss Anna Rob-inson of Minneapolis. She obtained such waters from the place of places of diversion to the town of Esquimalt and the peninsula adjacent thereto, as defined by section 8, of said act. In the same way and to same extent as such rights and privileges had been originally conferred by the said Esquimalt Waterworks Act."

And in section 10: her decree in Edinburgh on July 20th.

such rights and privileges had been originally conferred by the said Esquimalt Waterworks Act."

And in section 10:

"The rights and privileges conferred by this act are subject to and have been conferred only upon the following conditions:

(a) "Should the corporation of the city of Victoria at any time so desire, the council of the corporation may by to be private.

Berlin, July 31.—It was settled to day that the wedding of Miss Kathberine Eddy of Chicago, sister of Spencer E. Eddy, first secretary to the United States embassy here, and Albert K. Beveridge, United States senator from Indiana, is to take place on August 7th at the residence of Ambassador and Mrs. Tower, It is to be private.

GIFTS TO LAURIER

company and for the right to take all or superition scaling itself or most of the materials from the aforesald intended from the aforesald intended from the materials from the aforesald intended from the most of the country in the most of the country in the most of the country in the most of the materials from the aforesald intended for the mean and occupiers of the said under ment between the company and, the company and the company and the company to the said under the said waters of the intended from the said under the sai

As Mr. Meyerstein had to leave by the 9 o'clock train to rejoin his party he did not call on his American friends as asked to and has not visited Seattle. All that Mr. Meyerstein said was borne out by the friend who accom-panied him.

and that the plaintiff applies to dismissed. "The defendants are entitled," he said, "to a declaration that they have the right to take the unrecorded waters under the Water Clauses Consolidation act, 1885, 1897, also the right to take the water of Goldstream under the act of 1873."

Mr. Justice Morrison held that the waters and open to record by the edwarers and open to record by the company the rights claimed contending that all they could clam under it was the uninterrupted, undiminished and unpolluted flow of water past their lands.

Chief Justice Dissented

The Chief Justice in dissenting held that there were no limitations on the purposes for which the water might be diverted by the Esquimalt Waterworks company and that even if the proper use were not being made of it, the intention of the legislature in the conditions imposed in the company's act of 1892, was to grant an exclusive license to the connany to use them from time to time; and at all times for the purposes of the undertaking.

Company Appealed

In order to give finality to the case, the Esquimalt Waterworks company appealed from the judgment of the Full appealed f

the Esquimalt Waterworks company appealed from the judgment of the Full court direct to the privy council. The case came up for trial the first week enjaged is that my ticket had alin July with the result just announced.

In London, Sir R. B. Finlay, A. P. Luxton and S. A. T. Rowlatt appeared for the appellant company. Chas A. Russell and F. P. M. Schiller, for the defendant corporation.

Company Satisfied

Theo Lubbe, general manager of the Esquimalt Waterworks Co., refused yesterday to make a statement for publication regarding the judgment rendered by the privy council in favor of his company in the suit against the city.

"The privy council has delivered judgment and the matter is closed", when seen about the matter absolutely refused to discuss if when seen about the matter absolutely

FINANCIAL DEPRESSION.

Managing Director of Le Roi Speaks Of Money Market Conditions.

Winnipeg, July 31.—A. J. McMillan, managing director of the LeRoi Mining company, has arrived in the city from England on his way to Rossland. Mr. McMillan has been in England for about six weeks. He states that there is considerable financial depression in London and New York, and that in most cases where issues have that in most cases where issues have been undertaken underwriters have had to take up seventy or eighty per cent, the public declining to come in There is not likely to be much im

est.

As regards mining in Brittish Columbia, Mr. McMillan states that there
is considerable trouble in getting sufficient coal and coke for mining and
smelting purposes. Otherwise the outlook is satisfactory. Canada, especially
Manitoba and the prairie section of
the country, is now much thought
about in Great Britain, and the outcome of the crop here is being eagerly

August Furniture and House Furnishing Sale

COMMENCES MONDAY, AUGUST 5th

Wearing Apparel for the Warm Days

Women's Summerweight Underwear

WOMEN'S LISLE THREAD VESTS. finished with dainty lace, no sleeves. Good values at each 65c, 35c, and 25¢ WOMEN'S SPUN SPENT SILK AND MERCERIZED COTTON VESTS. trimmed with pretty hand crochet lace, no sleeves. Prices, each \$1.25, \$1.00, 75¢ WOMEN'S COTTON VESTS, with hand crochet trimmings, no sleeves. Fine values at, each, 75c, 65c, 50c, 35c, and .. 25¢ WOMEN'S VERY FINE COTTON AND LISLE THREAD VESTS, daintily trimmed, short and long sleeves. Popularly priced as follows: 90c., 85c., 75c., and 50¢ WOMEN'S RIBBED COTTON UNDER-GARMENTS, ankle and knee length, trimmed with pretty lace. Good values at

65c., 50c., and 35¢ WOMEN'S LISLE THREAD AND COT-TON COMBINATION, long and short sleeves, trimmed with lace. Special value at, each, \$1.25, \$1.00, 90c, and 75¢

Men's and Boys' Bathing

MENS' ONE-PIECE BATHING SUITS. Special values at 85c. and 75¢ MEN'S TWO-PIECE BATHING SUITS, Special values for \$3.50 to \$1.00 BOYS' BATHING SUITS. Excellent values at 50c. and 35¢

Men's New Summer Shirts at Popular Prices

MEN'S COLORED PRINT AND OX-FORD SHIRTS. Fine values at 85c and 65¢

Men's and Boys' Summerweight Underwear

ENGLISH WHITE COTTON MESH UNDERWEAR, short sleeves, short drawers, all sizes. Good value at, each 75¢ LIGHT WEIGHT ELASTIC RIBBED UNDERWEAR, cream and natural shades. Fine values at \$1.50, \$1.25, and 75¢ MEN'S TWO-THREAD BALBRIGGAN UNDERWEAR. Good value at, each 50¢ BOYS' BALBRIGGAN UNDERWEAR. Good value at, each 25¢

Something New in Men's Outing Flannel Shirts

MEN'S "FLANNEL-OUTING" SHIRTS. in checks and stripes, and plain white, new double cuffs, separate stand up stand down collar. Special value at each, \$2.00 and \$1.75 MEN'S CREAM LUSTRE SHIRTS, with collar attached, extra good quality, MEN'S CREAM LUSTRE SHIRTS, cream ground with fine checks, collar bands. Special, each \$2.00 WHITE MERCERIZED SHIRTS, with fine stripe, collar attached, extra good value \$1.00 WHITE SILK STRIPED OUTING OR TENNIS SHIRTS, collar attached, fine value, each \$1.00

Men's Sox for Summer Wear

SUMMER WEIGHT, FINE COTTON SOX, plain black, black and embroidered, with colored silk and black, with natural feet. An excellent quality sox for, per

Men's Summer Footwear

MEN'S WHITE CANVAS OXFORDS AND BALS. Special value for .. \$1.50

Women's Blouses for Summer Wear

WHITE CHINA SILK BLOUSES, good value at each \$1.75 WHITE LAWN BLOUSES, special value at, each, 90c., 50c., and 25¢

Children's Useful Dresses for Summer

Balance of Children's Dresses, in white and colored chambrays, prints and muslins, from \$2.50 to 75¢

Women's Bathing Suits at Low Prices

IN LUSTRES-With sailor collars, trimmed with white braid, colors navy blue and black. Each \$4.50 and \$3.50

Children's Waders

MADE IN RUBBER, special values at 75c and 65¢

Women's Bathing Caps SPECIAL QUALITIES, from \$1.25 to 25¢

Company in the streams in question do without regard to the proving the command of the company to firm in the own of the company in the command of the company to firm in the command of the company to make the company to make the command of the compa

VOL. L., NO. 66

MOROCCO

Europeans Have Casa Blanca,

Tangier, Morocco, uation at Casablan worse. Two steame day bringing refuge carrying 250 Jewish French refugees, an with 400 persons many Europeans here report the alarming, the town power of the nati peans at Casablan

aboard the steam harbor and panic
There have been n
between the guard
and a number of
killed. The French
rived at Casablanc ing and is await from Algeria befor So many conflicting ous sources are difficult to give of the situation at
Another steamer
bringing 400 refug permitted by the peace. In spite the harbor of the lee, a large body of Europeans as the The Moors appear reprisals for they proceeding to the tragged out a number vaults and be A body of troops fire. A number band dispersed. At the request here the Gallic barding the ville

uli for about a Caid Mehalla, has fought anot risoners and hea tained by the gov

Paris, Aug. 3.— issued to-night and of the absolute p Moroccan govern disorders at Casa to send enough m tthe Algeciras ag Oran, Algeria, A

are being massed in the interior in Oppose Sen Madrid, Aug. 3

will be best serv tion of good rel tribes and not b the rivalries of Britain and Gern says that Spain's act reparation in ity for the assas Wireless

Lonodn, Aug. Marconi compa warconi company that a radiograph sun between Ire September. Imposervice is started wireless station a increased and opened thence to SRIKE

Disorder Contin Belfast, Aug.

contines, although its settlement Me In one instance ed a van loaded and set it on wreckage off the other wagons we This evening a patrol and atte were necessary beersed. Several

Beginning next ties have decided protect vans and that the negotiati to the carters s satisfactorily Mor ceived from varie ceived from vari relate that the da The disaffected stabulary apparer awed by the tran Belfast and the was declared here ber minded have ber minded have the advise of that it would be cuss their grieval