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The Politics of Assessment: The Water Question in St. John's, 1844-1864

All 19th century North American cities confronted the common problem of creating water supply systems to meet the needs of their growing urban communities, and the establishment of adequate water services was a leading issue in the municipal politics of the era.[1] As the seat of Newfoundland's colonial government after 1832 and especially as the great commercial centre for the island's fisheries, St. John's enjoyed considerable growth at the middle of the 19th century. Aided by the migration of people from the outports, the population of St. John's increased from 14,946 in 1832 to 24,851 people in 1857.[2] Urban growth presented challenges, but in St. John's the problems were unusual ones. Before 1888 there was no government directly responsible for local services, nor was there a strong tax base to provide revenue for such needs.[3] As a result matters such as the problem of water services for St. John's became the concern of the colonial legislature.

The slow and difficult development of water services in St. John's owed a great deal to the existing system of land tenure. By mid-century much of the most valuable commercial and residential land in the town was owned by absentee landlords who generally lived in England or Scotland. Most of these estates dated from the 18th and early 19th centuries and had been formed both through land grants made by the governor and through purchase of land titles from military officials and civilians who had originally owned the land.[4] The absentee

1 See for instance Elwood Jones and Douglas McCalla, "Toronto Waterworks, 1840-77: Continuity and Change in Nineteenth Century Toronto Politics", *Canadian Historical Review*, LX (1979), pp. 300-323. The author would like to thank the Social Sciences and Humanities Research Council of Canada for financial support in the preparation of this paper.

2 *Census of Newfoundland*, 1836-1857; Shannon Ryan, "The Newfoundland Salt Cod Trade in the Nineteenth Century", in James Hiller and Peter Neary, eds., *Newfoundland in the Nineteenth and Twentieth Centuries: Essays in Interpretation* (Toronto, 1980), pp. 45-57.

3 On the development of municipal institutions in 19th century St. John's, see Melvin Baker, "The Government of St. John's, Newfoundland, 1800-1921", PhD thesis, The University of Western Ontario, 1981.

4 *Ibid.*, pp. 45-6. The pattern of 19th century ownership can be understood from an 1849 insurance map of St. John's and the lists of absentee landlords compiled for the legislature in 1851 and 1881. See William R. Noad, "Map of St. John's, Newfoundland" and "Book of Reference, showing Ownership and Nature of Property", [1849], Records of the Newfoundland Surveyor General's Office, Provincial Archives of Newfoundland and Labrador [PANL]; "A Detailed Statement of compensation awarded to, with the names of Absentee Landlords in the town of St. John's, under the St. John's Rebuilding Act", *Journal of the House of Assembly* [*JHA*], 1851,

landlords operated through local agents in St. John's, who negotiated the terms of building leases for them, and were also responsible for the collection of ground rent from leaseholders. As these agents were often prominent merchants and lawyers, the interests of the absentee landlords were well-represented during the 19th century in the colonial legislature and government. Through their agents, the absentees opposed the imposition of any direct taxation on their property. Indeed, following the great St. John's fire of 1846, the landlords acted swiftly through their local agents to insert covenants in their leases specifically protecting themselves against any property tax which might be imposed by the colonial government or by a future municipal corporation. As the landlords had only a reversionary interest in the buildings erected on their land, they argued that they should not be assessed for property which brought them no profit during the life of a lease. Their only possible gain from the improvement of St. John's was to be able to demand a higher ground rent at the expiration of a lease — but this was a distant prospect and one that could easily be offset by a property tax.[5]

This situation was of considerable significance in the development of St. John's, for the system of land tenure not only discouraged the imposition of property taxes but also worked against the establishment of municipal government. Nevertheless, the fires of the 1840s highlighted most dramatically the increasingly obvious need for an adequate water service in the growing community. As a result of concern over the quality and quantity of the water supply — concerns closely related to the protection of health and property — colonial politicians began to take steps to establish a suitable water service for St. John's. In order to pay for such a service, however, the colonial government attempted to challenge the landlords' exemption from property taxes and took other steps which helped prepare the way for the municipal incorporation of St. John's in 1888.

Prior to the 1840s the town relied for its water supply on wells and on the many streams that flowed down the slope of the hill to the harbour. By that decade, however, population growth and the overcrowding in the area around and above Duckworth Street (an east-west street running parallel to the harbour and above Water Street) were severely taxing the traditional sources of supply; there was no longer enough water and what could be delivered was of increasingly doubtful quality.[6]

Appendix, p. 232; "Report of Committee on Land Tenure", *JHA*, 1883, Appendix, pp. 5-117.

5 Knutsford to O'Brien, 1 March 1890, and enclosures, Ripon to O'Brien, 10 December 1892, and enclosure ("Petition by Landowners in St. John's, Newfoundland, to the Most Honourable Her Majesty's Secretary of State for the Colonies against 'An Act relating to the Re-building of St. John's and its Municipal Affairs'"),. Despatches from Colonial Office to Governor, Box 1890, GN1/2/6, PANL.

6 "Report of a Select Committee, appointed by the House of Assembly to consider and report upon a bill before the House, entitled 'A Bill to make provision for supplying the Town of St.

The impetus for reform came initially from the Liberal Party, which represented the town's majority Roman Catholic population in the legislature. In 1844 and again in 1845 the Liberals pushed for the construction of a proper town water system which would draw on several inland lakes and ponds for a fresh water supply. They were moved to do so by the impurity of the existing sources and by the fear of fire in the area above Water Street, where little insurance was available because of the great risk.[7] The Liberal standard bearer on the water question was John Nugent,[8] an Irish-born schoolmaster and member of the legislature for St. John's. In 1844 he introduced a bill based on imperial legislation for supplying Irish towns with water. Under his proposal the colonial government would raise a certain sum to construct tanks and reservoirs, buy and lay pipes and ducts, and purchase any other necessary equipment. The construction of the new system would be left to a board of five commissioners to be appointed by the governor. The cost of maintaining the water works would be paid for by assessments on all householders occupying a dwelling with an annual rental of £5 or more — a broad qualification that would obviously have included a large number of fishermen and labourers occupying tenements renting from £5 to £8 per annum in the backstreets of the town.[9] The amount of this assessment would be determined by a 15-member commission to be elected on a household franchise with five seats to be up for election every year.[10] This system, Nugent argued, would ensure all the inhabitants of the town "good, wholesome water ... at as low a rate as possible". The poor would get water "without expense", while "others" would pay according "to their means, for the maintenance of the supply".[11] The bill, however, was lost on division when St. John's Conservative politicians combined with outport representatives, who were opposed to using general revenue to pay for St. John's improvements, to defeat the bill.[12]

In 1845 the legislature referred the water issue to a select committee chaired by Nugent. This committee collected considerable evidence from local doctors about the deficiencies of the existing supply. "The quality of water with which the public is supplied", District Surgeon Samuel Carson informed the commit-

John's with Fresh Water'", *JHA*, 1845, Appendix, pp. 299-308; letter from Major Robe, discussing the possibility of using a site on Military Road for the erection of a public building, included in incoming correspondence of the Colonial Secretary's Office, GN2/2, PANL.

7 *Gazette* (St. John's), 28 October 1845.

8 John Valentine Nugent, born Waterford, Ireland, 1796; Roman Catholic; educator, newspaper editor and proprietor, sheriff; MHA Placentia-St. Mary's, 1836-1842, St. John's, 1842-1848; high sheriff, 1856-1871; died St. John's, 12 June 1874.

9 Sir John Harvey to Lord Stanley, 29 January 1842, *British Parliamentary Papers, Colonies, Canada* (Irish University Press, Shannon, 1971), Vol. 16, p. 37.

10 The 1844 and 1845 water bills were printed in the *Gazette*, 13 February 1844 and 4 February 1845.

11 *Newfoundlander* (St. John's), 8 February 1844, 30 January 1845.

12 *Newfoundlander*, 23 January 1845, 8 February 1844.

tee, was "as various as the substances that compose the soil through which it flows; the springs, without an exception, are in filthy localities". In the absence of any system of sewerage and drainage, street water added to the impurity, because of the presence of "stagnant pools and excavations, the common receptacles of all kinds of filth". These pools, which contained decayed animal and vegetable matter, could be found near practically every house, and were especially prominent in the congested localities of the poor.[13] With this evidence in hand, Nugent advocated the immediate enactment of legislation at the next session of the legislature in 1846 to lend a St. John's board of commissioners approximately £4,000 for the construction of a proper water system. His committee also recommended that assessments be imposed on citizens to pay for this loan.[14]

In October 1845 the merchants of St. John's also addressed themselves to the water question. These matters were much in their minds in the fall of 1845 because of a recent visit to St. John's, the first since 1809, of an agent of the Phoenix Fire Insurance Office of London. This agent, J.J. Broomfield, who toured all the major cities of British North America, was amazed at the risk St. John's presented; it was "generally . . . the worst built town that I have seen since I left England".[15] The recent success of the St. John's merchant community in September 1845 in providing the town with gas lighting through the formation of the locally-owned St. John's Gas Light Company[16] prompted the merchants to attempt a similar private joint stock company to provide St. John's with a new water service. Their priority was Water Street, but they were willing to provide water to the whole of St. John's, if the colonial legislature would make a public grant to the new company equal to what it could raise itself.[17] When a sharelist was opened in the community, £6,000 was quickly raised, the St. John's Water Company being formally organized in January 1846. Two of the most prominent backers of the new venture — William Thomas[18] and Charles Fox Bennett[19] — were also leading members of the legislature.[20] The bill to incorporate the St. John's Water Company encountered strong Liberal opposition. The Liberals saw that the association of all the leading merchants,

13 "Report of a Select Committee appointed by the House of Assembly to consider and report upon a bill before the House, entitled 'A Bill to make provision for supplying the Town of St. John's with Fresh Water'", pp. 303-4.

14 *Ibid.*, pp. 299-300.

15 *Newfoundlander*, 13 October 1845; *Gazette*, 28 October 1845.

16 *Newfoundlander*, 8 September 1845.

17 *Gazette*, 28 October 1845.

18 William Thomas, born Dartmouth, England, 1785; merchant and politician, MHA St. John's, 1832-1833; died Liverpool, 5 December 1863.

19 Charles Fox Bennett, born Bristol, England, 1793; merchant and politician; MHA Placentia-St. Mary's, 1869-1878; premier, 1870-1874; died 5 December 1883.

20 *Newfoundlander*, 29 January 1846; *Gazette*, 20 January 1846.

most of whom were Protestants, with this company would make the creation of a rival corporation at some future date very difficult indeed. They were also angered because in the first instance only Water Street would be supplied, though William Thomas, the first president of the company, stated that this restriction was necessary because of the limited funds available, and the company would introduce service to Duckworth and Gower Streets as soon as this could be done economically.[21] To protect the public interest, the Liberals demanded and received a provision in the bill of incorporation limiting the shareholders to a maximum 10 per cent annual dividend on the paid-up capital. Any annual surplus was to be used by the company for establishing additional fireplugs and for providing water, free of charge, to the poor. Moreover, the shareholders were to allow the poor free access to any water from pumps and fountains the legislature might construct and connect to the company's mains and pipes.[22]

Reform of sorts had been achieved at last, but the merchants had acted too late to avert disaster. Only three months after the legislature approved these terms St. John's on 9 June 1846 was devastated by one of its greatest conflagrations. On this occasion, 2,000 buildings were burnt and about 12,000 people, or 57 per cent of the town's total population, were left homeless. The total amount of property loss was estimated at £888,356, only £195,000 of which was later recovered through insurance. Altogether, there were three casualties: one soldier died as a result of some demolition work Lieutenant-Governor Sir John Harvey ordered on Water Street; one citizen collapsed while attempting to carry his possessions to safety; and one prisoner died in his cell when the jail burnt. A few days later, two labourers clearing away ruins were killed by a falling wall.[23]

At a special session of the colonial legislature, which met to deal with the rebuilding of St. John's, several of the measures taken were conditioned by concern over the role of the absentee landlords. Because of the assessment covenants the absentee landlords had placed in their leases since June 9, in January 1847 the legislature first considered and then rejected the notion of imposing property assessments to pay for the rebuilding of St. John's. This was rejected because leaseholding St. John's merchants simply did not wish to pay their landlords' property assessments.[24] Instead, in place of a property assessment, the legislature struck a compromise whereby a 10 per cent duty was to be placed on all imports passing through the port of St. John's. This new duty would be used to pay off a proposed £20,000 loan the colony would raise to defray the rebuilding cost.[25] Also, it was feared that the absentee landlords would demand exorbi-

21 *Newfoundlander*, 23, 30 March 1846.

22 The 1846 St. John's Water Company Act was published in the *Gazette*, 19 May 1846.

23 Baker, "The Government of St. John's", pp. 157-62.

24 *Newfoundlander*, 4 January 1847.

25 The 1847 St. John's Rebuilding Act was printed in the *Gazette*, 19 January 1847.

tant prices for any land they might have to give up for both street widening and straightening improvements. Consequently, under the St. John's Rebuilding Act the legislature decided to minimize the amount of land to be taken by restoring street lines as much as possible to those which existed on the day prior to June 9.[26]

The conflagration also created a renewed sense of urgency for fire protection, and the recently-formed St. John's Water Company was quick to take advantage of the situation. The merchants now had their way as to how any future water company profits were to be used. During the 1846 special session the company persuaded the legislature to remove the clause in its act of incorporation restricting its annual profit to a maximum 10 per cent dividend on the paid-up capital. Mindful of the recent fire, the legislature acceded, one major shareholder declaring that the "Company would be dissolved" if the concession was refused, "for persons would not embark their capital in a speculation subject to a limit of this kind".[27] The company then proceeded to lay mains along Water Street.[28]

In 1849 the Chamber of Commerce declared that St. John's was "as secure from the effects of fire as any other town in North America",[29] but such optimism was illusory. The truth was that the company could not deliver enough water, its sole source of water being George's Pond, located on the slope of Signal Hill not far from Water Street itself. This problem became readily apparent when some residents of Water Street, on connecting with the main, found that there was little or no water for them.[30] The company dismissed the shortage as a temporary problem; but, despite repeated promises of improvement, the company neither altered the existing system nor actively sought another source of supply. Developing another source would obviously be a costly venture and with the annual dividends on the company's capital stock running in the 3 to 5 per cent range, the St. John's business community had little incentive to seek to supply the whole of St. John's with water.[31] In the circumstances the best that could be hoped for from private enterprise was limited improvement.

When the predominantly Roman Catholic Liberal Party took office in 1855,

26 *Ibid.* See also *Newfoundlander*, 24, 31 December 1846, 4 January 1847.

27 *Newfoundlander*, 6 August 1846. The 1846 St. John's Water Company Amendment Act was printed in the *Gazette*, 25 August 1846.

28 Correspondence from the water company to the government concerning the construction of the water works is located in GN2/2, 1847, PANL. See also *Gazette*, 9 November, 7 December 1847.

29 1 August 1849, "Annual Report of Chamber of Commerce for 1848-1849", Chamber of Commerce Minute Books, 1846-1875, P8/8/10, PANL.

30 *Newfoundlander*, 6 January 1859.

31 Financial Statements of the St. John's Water Company for 1852 and 1853 are in *JHA*, Appendix, 1853, p. 371, 1854, p. 198.

under the leadership of Philip Francis Little,[32] one of the new administration's goals was to provide an adequate water supply for all of St. John's, for domestic consumption and fire protection both. The tragic consequences of a cholera epidemic in late 1854 that was followed a year later by the destruction by fire of Tarahan's Town in the capital were uppermost in the minds of St. John's residents at this time. While the epidemic had claimed more than 500 deaths, the 1855 fire had destroyed more than 240 houses in Tarahan's Town, an overcrowded working class neighbourhood in the centre of St. John's, and had left 2,000 people homeless.[33] One solution to the water shortage which Little considered was the incorporation of St. John's. A bill of incorporation was drafted for presentation to the legislature at the 1856 session, but this plan was subsequently abandoned. The government's change of heart was probably the result of the conundrum of devising a municipal franchise: the majority of voters in St. John's, who were enfranchised at the colonial level on a household basis and were generally Liberal supporters, shared the merchants' natural distaste for direct taxation, yet would not tolerate a narrow property franchise. As one newspaper put it, the town's labouring population would pelt "with stones the taxgatherer who should go amongst them to demand even a dollar a head from each householder", while at the next election it would hoot "from the hustings ... the candidate . . . whose vote should have gone to deprive them of the right of voting at the municipal election".[34] For the town's merchants, however, a strict property franchise was prerequisite to any form of a municipal corporation. While willing to tolerate a household franchise at the colonial level, local property owners were fully aware of the graft and corruption so often associated with municipal government elsewhere in British North America and in the United States. It was folly, one of them wrote, to give "unlimited power of assessment" to a "corporation whose members would be elected by a numerous constituency of which the majority would be liable to only a fractional portion of the rates".[35]

Premier Little attempted to evade these obstacles by addressing himself more specifically to the problem of water supply and the inadequacies of the St. John's Water Company. In 1857, on the initiative of one of its directors, Robert Prowse, the member for Burgeo and La Poile, the water company received a grant from the legislature to extend branch pipes as far as Gower Street and to construct fire hydrants there. The next year the company came back to the legis-

32 Philip Francis Little, born Prince Edward Island, 1824; lawyer and politician; MHA, St. John's 1850-1855, St. John's West, 1855-1858; premier, 1855-1858; chief justice, 1858-1866; died Dublin, 1897.

33 *Newfoundlander*, 18 October 1855; Hamilton to Lord John Russell, 26 April 1855, *British Parliamentary Papers, Colonies, General*, Vol. 8, p. 35.

34 *Express* (St. John's), 23 January, 19 March, 26 April, 7 June, 16, 19 July 1856; *JHA*, 12 May 1856.

35 *Express*, 6 November 1860.

lature for a further grant in support of this work, but this was refused,[36] the Liberals in the meantime having decided on a scheme of their own for supplying the town with water. The Liberals now proposed that the government itself undertake the construction of a new water system which, along with other local improvements, would be financed by an assessment or land tax levied on absentee landlords. Under Little's land tax stipendiary magistrates would impose on the appraised annual value of land in St. John's and the annual rents collected from it a tax to create a fund not exceeding £2,000 per annum. The land tax would be paid by tenants who would deduct it from the rents they paid to ground landlords. Out of the annual revenue thus created, Little hoped to pay for new water works, a start on which was to be made through the raising of a £7,000 loan.

In putting forward this scheme, Little was deliberately ignoring a provision in the 1855 Royal Instructions ordering the Governor of Newfoundland not to assent to any bill passed by the local legislature that might prejudice the property of imperial subjects.[37] But Little considered the proposed new tax "reasonable" and "just" because absentee landlords had benefitted enormously from the expenditures the colonial government had made since 1846 on the rebuilding of St. John's. Local landlords were exempted from the new tax because as residents they had already contributed to the colonial revenue as consumers of dutiable goods. Exemption was also provided for those absentees who had not sold any land to the government after the fire, or whose property had not been increased in value by the improvements which had been made to the town, but it is not known how many absentee landlords fell within these categories.[38] Whitehall, however, had another view, and when protests were heard from a number of landlords, the Newfoundland legislation was disallowed. It was, Secretary of State for the Colonies E.B. Lytton wrote to Governor Alexander Bannerman, a deliberate attempt to inflict "injustice on one particular class in the community"; an "income tax" was to be imposed on "non-resident landowners" for the immediate advantage of "resident occupiers".[39]

With the defeat of Little's scheme, the Liberal government supported a new initiative from the business community to secure an adequate water supply. Under the leadership of the St. John's merchant and Liberal representative,

36 *Newfoundlander*, 19 February 1857; "Report of Select Committee on Fire Protection", *JHA*, 13 March 1857; "Evidence before the Select Committee appointed to inquire into the best means of preventing the spread of fire in the Town of St. John's", *JHA*, 1857, Appendix, pp. 498-503; *Newfoundlander*, 1 March 1858.

37 *Newfoundlander*, 1 March, 19 April, 3 May 1858; St. John's Rebuilding Debt Liquidation Act printed in *Gazette*, 18 May 1858.

38 *Ibid.* See also *Newfoundlander*, 10 May 1858.

39 "Despatch from the Secretary of State for the Colonies, specifying reasons for disallowing the Act 'For the Liquidation of a certain Debt for the Streets of St. John's'", *JHA*, 1859, Appendix, pp. 426-28.

Ambrose Shea,[40] the General Water Company was launched in January 1859 with a capital stock of £30,000 raised in St. John's through the sale of 6,000 shares at £5 each. Among those who lent their names to the list of shareholders in the act of incorporation was Roman Catholic Bishop John T. Mullock. The essence of Shea's plan, presented to the legislature in a bill prepared by Conservative leader Hugh Hoyles,[41] was that the colonial government would guarantee the annual payment of interest to the shareholders; the shareholders in turn would agree to strict government regulation of their company. Because the £30,000 estimate was based on the cost of the water works recently finished in Halifax, the General Water Company was permitted to increase its capital stock by an extra £20,000 if construction costs warranted. Until the project was completed, the company was also allowed to raise a loan for the annual payment of interest to its shareholders. For their part, the shareholders gave the colonial government the authority to approve all assessments and rates the company would charge for the use of its water, which was to be provided in all the main streets of the town. The new company was to purchase the works of the St. John's Water Company and make them part of the larger system.[42] The form of assessment which would pay for the new water supply was the rental system found in British cities. There was to be both an owners' assessment and consumers' rate. All owners of houses and buildings located within 200 yards of pipes laid by the General Water Company were to pay an assessment of 1¾ per cent on the appraised annual rental value of their property. The consumers' rate was to be applied to all consumers occupying houses and buildings which had been supplied with water, with the exception of dwellings with an annual rental value of less than £12.[43]

Separate legislation was passed preventing ground landlords from passing their share of the new assessments on to their leaseholders and tenants, covenants notwithstanding. In the hope of mollifying the imperial government this requirement encompassed resident as well as absentee landlords, but it was also disallowed.[44] The consequences of this action did not bode well for the future of St. John's because the town simply did not have a property tax base on

40 Ambrose Shea, born St. John's, 1817; merchant and politician; MHA Placentia-St. Mary's, 1848-1855, St. John's West, 1855-1859, Burin, 1859-1861, Placentia-St. Mary's, 1861-1869, Harbour Grace, 1874-1885, St. John's East, 1855-1887; died London, 30 July 1905.

41 Hugh Hoyles, born St. John's, 1815; lawyer and politician; MHA Fortune, 1848-1859, Burin, 1861-1865; premier and attorney general, 1861-1865; chief justice, 1865-1880; died 1 February 1888.

42 *Newfoundlander*, 6, 20 January 1859; the company's prospectus was published in *Newfoundlander*, 24 January 1859; *Newfoundlander*, 24 March, 11 April 1859.

43 *Statutes of Newfoundland*, 22 Victoria, Cap. 7.

44 *Ibid.*, 22 Victoria, Cap. 8. See also Duke of Newcastle to the Administrator of Newfoundland, 29 October 1859, and to Governor Bannerman, 19 March 1860, Despatches from the Colonial Office to Governor of Newfoundland, Boxes 1859, 1860, GN1/2/6, PANL.

which systematic local government could be built. Ground landlords could pass property assessments on to leaseholders and leaseholders could pass the burden to tenants — the group least able to pay. However, adjustments in the plan did not prevent the new water company from achieving its main purpose, the laying of new pipes.

Construction of the system faced serious technical and financial problems. In its first year of operation the company busied itself with the purchase of the necessary pipes from Scotland, the selection of an adequate water source, and the making of plans, drawn up by a Scottish engineer, James Foreman of Glasgow, for the construction of the waterworks. Construction commenced in the spring of 1860 under the superintendence of another Scot, James Fenwick, who was brought out to oversee the work. Because the company did not wish to drive up wages locally by drawing men from the fishery, 100 Irish navvies were imported to supplement the local labour force. The water source finally decided upon was Windsor Lake, about 4½ miles from the centre of St. John's.[45] The digging of a trench this distance required many workers, but in June 1862, a year behind schedule, the gravity flow system was completed. The final cost of the project, which included the purchase of the works of the St. John's Water Company and the loan for the payment of interest to shareholders until the company started operations, was a staggering £90,000, three times the original estimate. The extra cost and the additional year of construction resulted from unexpected problems in the digging of the trench. One mile from Windsor Lake workmen encountered a deep rockbed, more than half a mile in length, along the route marked out for the main. The company decided to cut through this rock, estimating the cost at £20,000. This figure proved wildly wrong and in 1861 another £30,000 had to be raised. In return for a permanent government guarantee on the interest of the company's increased stock, Shea now agreed to accept a government appointee on the company's board of directors. Such representation was considered essential by the Conservative government if the public interest in the company was to be protected.[46]

By 1862 St. John's had at last acquired a sufficient water supply for its inhabitants. By the end of 1862 the company had connected 1,048 buildings to its mains and installed 72 fire hydrants throughout the town, as well as 17 fountains for the use of the poor. For the Water Street merchants in particular the improved water system was a great boon, the insurance companies having already

45 "Report made to the Governor by Directors of the General Water Company", *JHA*, 1860, Appendix, pp. 527-31; "Statement of the Affairs of the General Water Company to 31st December, 1860", *JHA*, 1860-61, Appendix, pp. 331-38; *Express*, 12 April 1860; *Newfoundlander*, 9 March 1863.

46 General Water Company Annual Reports for 1861 in *JHA*, 1862, Appendix, pp. 454-62 and for 1862 in *JHA*, 1863, Appendix, pp. 1174-83; *Newfoundlander*, 14 January, 30 May 1861, 16, 19 June 1862, 9 March 1863. The 1860 and 1861 Water Company Acts were printed in the *Gazette*, 29 May 1860, 2 July 1861.

lowered their premiums in anticipation of the completed waterworks.[47] By early 1863, however, civic pride in the new facility gave way to intense controversy when the water company applied for a higher assessment on the appraised annual rental value of property. The company sought this increase because its operating expense was greater than had been projected by the legislature when the 1859 assessment was fixed. Adding to the public's uneasiness was the fact that the company had not made known what its consumer rate would be. Rumours were rampant in the community as to what the amounts of assessment and rate would finally be, one story placing them together as high as 11 per cent of the appraised annual rental value of property.[48] The anxiety of residents was further aggravated by the government's decision, announced at the opening of the legislature, to impose assessments for the construction of a sewerage and drainage system.[49]

Several public meetings were subsequently held to discuss the water company's financial position. The result was a petition containing more than 1,500 signatures protesting any substantial increase in the owners' assessment and asking for a low consumers' rate. The petitioners wanted the government to find other funds for the water company. Specifically, they recommended that the revenue collected from the annual licensing of taverns and from the rental of Crown lands be applied to the company's needs. The petitioners also demanded that a tax be placed on absentee landlords and that as an economy measure the size of the company's seven-man directorate be reduced to three: one director would be named by the governor-in-council; another would be elected by the company's shareholders; and the third would be chosen by the company's ratepayers.[50]

Both the government and water company president Ambrose Shea rejected the demands of the petitioners, considering them but a reflection of a momentary depression in the Newfoundland fishery.[51] Indeed, amending legislation was passed in the 1863 session giving the company authority to levy whatever assessments and rates it considered necessary, subject only to the approval of the governor-in-council. Company officials were also given authority to number and mark all houses and buildings in St. John's, a measure designed to facilitate assessment and rate collection. The number of company directors was reduced to three, but no action was taken on the petitioners' request that one director be elected by the ratepayers; rather, two were to be appointed by the colonial gov-

47 General Water Company Annual Report in *JHA*, 1863, Appendix, pp. 1174-77; *Newfoundlander*, 9 March 1863.

48 *Patriot* (St. John's), 4 January 1863; *Newfoundlander*, 26 January 1863.

49 Throne Speech as printed in *Newfoundlander*, 29 January 1863.

50 *Newfoundlander*, 23 February 1863; *JHA*, 10 February 1863.

51 *Newfoundlander*, 9 March 1863.

ernment and the third elected by the shareholders.[52] Other legislation passed during the 1863 session gave the water company responsibility for managing a reorganized voluntary fire brigade for St. John's and for the collection of the assessments that the government proposed to levy to pay for the construction of a sewerage and drainage system.[53]

With these changes, the General Water Company was in effect transformed into a departmental appendage of the colonial government. Premier Hoyles asserted as much, stating that if ratepayers disliked the company's policies, they could express their displeasure by defeating the government at the next general election. He also noted that the idea of allowing the ratepayers to elect a company director, though sound in principle, was impractical since it would necessitate "a registration list and other heavy expenditure".[54] The water company would not be subject to the democratic will of St. John's residents, but it would be accessible to them nonetheless. Its affairs would be subject to public scrutiny through the annual debate of its financial statements in the colonial legislature. The effect of these arrangements was to give St. John's limited autonomy, albeit indirectly and through the instrument of a private company.

Later in 1863, after these arrangements had been completed, considerable public opposition developed when the water company levied an owners' assessment of 3½ per cent and a consumers' rate of 7½ per cent.[55] Indeed, several prominent citizens refused to pay what they considered an unnecessarily high consumers' rate, arguing that the 1859 Water Company Act had not provided for the assessment and the rate to be based on the same property appraisal. When the water company failed to secure payment of the consumers' rate in Quarter Sessions, the matter was taken to the Supreme Court, where the decision of the lower court was overturned. While acknowledging the fact that the legislature had not made any specific appraisal provision for the consumers' rate, the judges declared that the act was defective, and that the legislature's apparent intention was that one appraisal would serve for both forms of taxation.[56]

In the meantime, arrears on the rates had left the company with a deficit of £1,800 for 1863, for the government guarantee was applicable only to the annual payment of interest to company shareholders. If the rates could not be collected in 1864, the company faced an even greater loss.[57] To remedy the situation the

52 1863 Water Company Act printed in the *Gazette*, 31 March 1863.

53 1863 Sewerage Act printed in *Gazette*, 31 March 1863; Melvin Baker, "Voluntarism and the Fire Service in Nineteenth Century St. John's, Newfoundland" *Newfoundland Quarterly*, LXXVIII, nos. 1 & 2 (Spring & Summer, 1982), pp. 24-8.

54 *Newfoundlander*, 26 February 1863.

55 Minute of Executive Council, 11 April 1863, published in the *Gazette*, 14 April 1863.

56 Judgement of Supreme Court published in *The Day-Book* (St. John's), 24, 25 February 1863.

57 *Newfoundlander*, 18 April 1864; General Water Company Annual Report for 1863 in *JHA*, 1864, Appendix, pp. 569-72.

Hoyles government in 1864 passed amending legislation which provided one appraisal for both the owners' assessment and the consumers' rate and divided taxpayers into categories depending on whether they owned or leased both land and buildings.[58] The water company was also given additional sources of revenue in order to relieve the burden of property taxation. One was a duty on all coal imported into St. John's and was collected by the company. Similarly, the company received the revenue from a rate on all vessels entering and clearing the Customs House at St. John's. This rate was set at five cents per registered ton and was payable once a year upon a vessel's first entry or clearance. The rate applied to all vessels engaged in foreign trade, the seal fishery off Newfoundland's coast, the island's coastal trade, and the Labrador fishery. In return for payment of the rate, vessels could take on as much water as they required from the water company's harbour facilities.[59] To provide additional revenue for the water company, the government increased property assessment rates in 1868, but otherwise the water company's new sources of revenue were sufficient to protect ratepayers against further increases until the early 20th century.[60]

The formation of the General Water Company represented the best that could be achieved to give St. John's an adequate water service in the middle of the 19th century. Since there was no local government directly responsible for the town's services, and as there was no strong tax base to supply the revenue for water or other services, the approach taken in St. John's to secure an urban water system differed considerably from developments in other cities and towns of British North America. Yet the establishment of water services in St. John's marked the beginning of a gradual drift towards municipal incorporation. Indeed, when St. John's finally did receive its own municipal government in 1888, largely in order to build and pay for an extensive sewerage system, the colonial government granted the city the same sources of revenue the water company enjoyed. Meanwhile, the legacy of the absentee landlord remained a fact of life in St. John's well into the 20th century.[61]

58 *Statutes of Newfoundland*, 27 Victoria, Cap. 4. The first item to be assessed under the new arrangement was the ground rent. Ground landlords were now to pay a water assessment of 2½ per cent on the annual amount of ground rent they received; in reality , of course, this assessment would be paid by leaseholders under the terms of the covenants in the building leases. Lessees in turn were to pay an assessment of 2½ per cent on the difference between the annual rental value of their property and the amount of ground rent they paid to their landlords. In the case of freeholders, who owned and occupied, the rental value of land and buildings was lumped together. Finally, owner-occupiers and tenants living in houses with an annual rental value of at least $40.00 were to pay an occupiers' rate of 5 per cent on the annual rental value.

59 *Statutes of Newfoundland*, 27 Victoria, Cap. 41.

60 "Extract from Minutes of Council, of 15th February, 1868, confirming certain Resolutions adopted by the General Water Company", *JHA*, 1868, Appendix, p. 769.

61 Efforts by the Municipal Council to reach the absentee landlords with property assessment in 1890, and again in 1907 and 1908, experienced the same fate as earlier attempts in the 1850s, as landlord opposition in both London and St. John's was strong enough to defeat such measures.

More recently, their influence has greatly diminished. Provincial legislation passed in 1977 gives a leaseholder the right to buy out his landlord's interest for an amount equivalent to 20 years' rent on the property. The rental system of taxation remained in place until 1981 when St. John's finally converted to a capital value system of taxation found generally in other Canadian cities.