

## Chapter XVII

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### WATER RIGHTS

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#### *Watuppa Ponds and the Quequechan River*

The North Watuppa Pond and the South Watuppa Pond are each great ponds, situated along the east boundary of the City of Fall River. The North Pond is about four miles long and from three-quarters of a mile to a mile and a quarter wide and is fed by springs beneath it, by surface water from surrounding land and a few insignificant streams. It is connected with the South Watuppa Pond by a narrow passage. There is no perceptible current in the North Watuppa Pond, but at its south end there is a slight current toward the South Watuppa Pond. The South Watuppa Pond is of approximately the same area as the North Watuppa Pond but at its north end it is considerably wider. It is fed by the waters from the Sawdy Pond and Davol Pond at its south end, by the waters from Stafford Pond from the southwest, and the Christopher Borden Brook supplies some water from the southeast. The Quequechan River is unnavigable and is the only outlet of both ponds. It flows in a general westerly direction from the northwest shore of the South Watuppa Pond and passes through the city, emptying into Mount Hope Bay with an average daily flow of twenty-six million gallons.

For a mile and a half the current of the Quequechan River is sluggish, but in the last half mile it falls rapidly for one hundred and twenty-nine feet, down a succession of ledges, into the Bay. Upon this portion of the river there are valuable water privileges which have been utilized for many years by mills which were built over the stream and which own the bed thereof and nearly all the land on either side. The water of the river has been controlled since 1813 when the predecessor in title of the Troy Cotton and Woolen Manufactory, owner of the privilege nearest the ponds, built a dam and raised the natural level of the water and of the ponds three feet. The Watuppa Reservoir Company, incorporated under a special statute of 1826 (Chapter 31) was authorized to make reservations of water in the

ponds by erecting a dam to raise the water two feet higher than the previous dam. It had power to own real estate not exceeding ten thousand dollars in value and personal estate not in excess of five thousand dollars. In 1827 this company built a dam across the river below that of the Troy Manufactory and bought rights of flowage along the ponds and stream. The Supreme Judicial Court has ruled that whatever flowage rights it did not purchase it has acquired by adverse possession.

In 1872 the City of Fall River was authorized to take water from the North Watuppa Pond for domestic purposes and it first took one and one-half million gallons daily and paid the manufacturing establishment on the Fall River stream for the same. In 1886 the legislature doubled the amount of water which the city might take for domestic and other purposes. For the first taking, damages were awarded and paid under decision of the Supreme Court dated February 28, 1883 and this included damages to the American Print Works. It had title to one-eighth of the flow of the river by deed from the Fall River Iron Works Company which was owner of the Metacomet Mill, the lowest mill on the stream. It dug a canal from the pond of the Metacomet Mill to the Crab Pond owned by the American Print Works, and this water was at first used for power, but afterwards for bleaching, cleansing and other printing operations. The legislative grant of 1886 provided that the city need not pay compensation for the additional water it was authorized to take and that resulted in litigation in the form of bills in equity brought to prevent the city from taking the additional water so authorized, but in these actions the city prevailed, the Supreme Court deciding by the opinion of four judges out of seven, that the Commonwealth had reserved for the public the right to use water for domestic purposes from all great ponds by the reservation set forth in the colonial ordinance relating to great ponds passed in 1641 and amended in 1647. This colonial ordinance was an ordinance of the Province of Massachusetts Bay, whereas at the time that the ordinance was passed the Watuppa Watershed was not within the Province of Massachusetts Bay but was within Plymouth Colony. On this ground an amended action was brought by the Watuppa Reservoir Company against the City of Fall River. It was heard in March of 1891 and decided on September 2nd, 1891. The case was heard upon agreed facts, as was the first case, but certain additional facts were incorporated showing the different colonial jurisdictions and upon the amended facts the earlier decision was reversed because Plymouth Colony and Massachusetts Bay Colony were not united until the charter of 1692 and until that time the ordinances of Massachusetts Bay could have no effect

in Plymouth Colony. Inasmuch as Plymouth Colony had conveyed most of the land on both sides of the Quequechan River and the lands in the Watuppa Ponds by what is known as the Pocasset grant or purchase of March 5, 1680 and had conveyed the balance of the pond lands by deed of what was known as the Freemen's Purchase in 1656, including in the deeds "all the waters, ponds, brooks", etc. within these bounds, the title to these waters had passed into private hands prior to the effective date of the ordinance, and so could not be taken away from these owners without compensation.

This decision made it proper for the Watuppa Reservoir Company and the mills along the Fall River stream to receive compensation from the City of Fall River for the use of the water which the last Act authorized it to take, and a contract to this end was accordingly made. It is to be noted, however, that this decision was based upon facts "agreed upon", by both parties and if other undisclosed and relevant facts exist, the decision would not be binding. I deem it clear that such other important and relevant facts exist, particularly for that there was in force in Plymouth County for a long time prior to the deed of March 5, 1680 a colonial ordinance of Plymouth County having the same effect as the Massachusetts Colony ordinance of 1647, whereby Plymouth Colony had reserved for itself and the public control of all ponds within its limits.

### *Cook Pond and Its Outlet Stream to the Bay*

*Charles D. Davol, Vice President of the Fall River Historical Society gathered the data and wrote this report on the Cook Pond water-shed.*

Cook Pond (also called Laurel Lake) is *not* a great pond; both on account of its size (170 acres) and the statute under the Massachusetts law when Plymouth and Massachusetts colonies were united in 1692. All of the pond was until 1862 within the State of Rhode Island and its southern shore and a large drainage area still are. While Cook Pond is small compared with the two "Watuppas", the outlet stream and several small ponds along its course to the bay have afforded valuable water rights to a large number of mills and manufacturing establishments.

The outlet to Cook Pond is 175 feet above high water mark. This is 46 feet above the South Watuppa Pond and as the general level of the region is so high the water shed is small, there is little flowage and the yield from the pond is small. Also the water shed includes portions of the city where all the surface water runs into the city sewers. At a point south of the southern end, in the Pocasset Cedar Swamp, the water shed of Cook

Pond adjoins the water shed of Sucker Brook, the outlet of Stafford Pond. At various times ditches have been dug with the idea of diverting the Stafford Pond water into Cook Pond. If the ditches had been kept open, a legal question would have at once arisen but they were allowed to fill in and have remained so.

The drop of the stream is much more than that of the Quequechan River but because of the small head of water there was little use made of it for power. There were at various times three small water wheels or turbines in the stream. One in the Wyoming Mill (later Marshall's Hat Factory), one at the Conanicut Mill and the third in the old Lewis Brothers Mill, later owned by the Algonquin Print Works. None of them furnished much power and with the advent of electricity, the last one was given up. While not used for power the water from the pond and stream has been of great value to over a dozen large manufacturing plants; the Marshall Hat Factory and the Algonquin Print Works having been two of the largest users of water in the city.

About 1815 there was a dam and water gate built at the north end of the pond on Dwelly Street, to control the flow from the pond. As more and more factories were built along the stream, the need for regulation was felt and in 1884 the Cook Pond Syndicate was formed. This association of mills on the stream held the power to control the dam at Dwelly Street, keep the outlet clear and regulate the flow on the stream for the benefit of all parties interested. There was also an association of mills on the pond which was interested in maintaining the level of the pond within certain limits; as too full a pond meant a flowage on their property and too low a pond meant a lack of water for boilers and condensing uses. High water was determined from early flowage rights in deeds and was marked by a bolt driven in a rock in the Whitely Swamp east of the pond.

On the course of the stream there were several small ponds. On the west edge of Globe Pond at Globe Corners was built the first cotton mill. The stone building torn down in 1927 was on the site of this mill but was not the original building. Globe Pond has been filled in and is now Rev. John Kelly Park. Other ponds were on the Globe Mills property and on Marshall's land. On the old maps there is a pond east of Bay Street, called in the deeds Mud Hole and Old Pond. It is now dry but the depression where it was can be traced. On this same lot was an artificial reservoir called Clear Pond that got its water from springs located on the hillside above.

East of junction of Chace and Bay Streets the stream turned northeasterly and passed under Bay Street near Sprague. About 1839 the owners of the land where the Conanicut Mill stood later, built a dam where the stream turned north and diverted a part of the water across Bay Street, where there was sufficient head to run some kind of a water wheel. At about the same time Oliver Chace by building dykes south of what is now Globe Mills Avenue formed a reservoir, later called New Pond. The water in New Pond comes from this diversion stream and is used for storage, flowing back into the diversion stream when it reaches a certain level. The water then runs into a pipe to the water wheel, thence in the tail race under the mill (Conanicut) and joins the other branch. It then crosses Shaw Street and runs into a large storage reservoir on the Algonquin property. After its use by the Algonquin it passes through a culvert on the Staples Coal Company land to the bay.



## OUR MERCHANT PRINCE

Earle P. Charlton, son of James D. and Lydia (Ladd) Charlton, was born in Chester, Conn. on June 19, 1863. His ancestors had lived in Windsor, Conn. for several generations and many of them were patriots during the colonial period. Mr. Charlton's schooling was such as was then afforded to New England boys in the rural districts. He attended the schools of Windsor with supplementary education in Hartford, but these schools did not furnish courses in the advanced sciences. He did not complete the high school work, but in school he had close contact with other bright minds, all of which supplemented a wonderful ability on his part to quickly grasp every situation which would equip him for a business career.

At the age of seventeen, he accepted employment as a travelling salesman with a wholesale merchant in Boston, and his duties there enabled him to come into close contact with many active merchants, to understand their aims and viewpoints and to accurately measure the problems which were needed for his own advancement. Among men whom he often met were Mr. Sumner Woolworth, Mr. Fred Kirby and Mr. Seymour H. Knox who were owners of stores and were laying the foundation of the five and ten cent chain store business in which Mr. Charlton subsequently engaged. His first store was opened in Fall River in 1890, and Mr. Knox became a partner in this business which they conducted under the name of Knox and Charlton. During the following six years Knox and Charlton opened stores in several other cities, but in 1895 the partnership was dissolved, and the stores were apportioned between them, the Fall River store passing to Mr. Charlton. Between 1895 and 1912 Mr. Charlton increased the number of stores owned by him to fifty-three, six of which were located in New England cities, thirty on the Pacific coast and seventeen in Canada. These stores were operated through various corporations of which he had complete control, though a few shares were allotted to the associates who aided him to manage them from his Fall River office. A few stores, situated in Connecticut, had been originally opened by his brother-in-law, Edward A. Bardol, and later Mr. Bardol became vice-president of his controlling corporation with a home in Fall River. The general treasurer of the corporation was Victor F. Thomas who opened most of the Canadian stores, while one Harry P. Hermance, who from 1902 had charge of a San Francisco store, also had a general supervision over the other Pacific coast stores.

Mr. Charlton's nephew, Charlton E. Lyman, was manager of the New Britain store after 1912, and his brother Howard Charlton became manager of a Montreal store. Other associates, Chester H. Faunce, Oscar F. Douglas, Jr. and Herbert S. Crowther, were officials in the Fall River store. Mr. Faunce retired, Mr. Douglas became a foreign buyer with headquarters in the New York office, and Mr. Crowther became manager of the Riverside, Cal. store in 1907. He came to the New York office in 1922. Mr. Bardol became manager of the New England District with offices in Boston, and Mr. Lyman entered the New York office as a buyer.

From the time that Mr. Charlton was a salesman at a salary of \$7.00 a week until the F. W. Woolworth Co. was organized in 1912, he lived economically and his earnings were re-invested in his business. Upon the organization of the F. W. Woolworth Co., preferred stock was issued to the organizers in an amount equal to the value of the real estate, cash, fixtures and merchandise which they turned over to the new corporation and common stock with par value of fifty million dollars was issued to the organizers of the corporation for the good will of the business. The preferred stock was soon retired, and other earnings were applied to the value of the good will which was soon reduced to one dollar.

The historical importance of Mr. Charlton's career arises from the fact that when he died at his elaborate summer home in nearby Acoaxet on November 20, 1930 he left an estate larger than any theretofore possessed by any Fall River resident. His capital was not inherited nor speculative — it was earned. It took a period of forty years to amass this vast wealth and he accomplished that which all others had failed to do. In his contact with other men he never assumed any superiority, he met all graciously, and was kind and considerate. He quickly grasped every financial problem and had full opportunity to exercise his powers extensively. This success was also largely due to his confidence in his associates and his quickness to grant advancement to those whom he deemed worthy. He was liberal in his gifts to charity, and while he did not readily respond to the suggestions and requests of others, he was quick to study the viewpoint of all, and to follow his own conviction in affording relief.

I deem his principal success to have been gained because he had unusual ability to select and enthuse his associates in his business and because he relied implicitly upon those who would follow his leadership; he never nagged them or interfered with their work and never followed up their activities with undue surveillance. He had a rare knowledge of values which extended even to the value of real estate in remote sections. If he or



his corporation decided to acquire a new business location he quickly determined what sum that property was worth and rarely varied his offerings or made concessions. The same policy was followed in the management of the stores. There was substantial reward to managers when their stores were successful, and often only reasonable or even small compensation if the income was unsatisfactory. In this way he made his managers unusually interested in the success of their stores. Many persons, including the writer, who were assigned duties in connection with the negotiation of some business proposition or some real estate purchase, have been paid very substantial remuneration when a quest was successful, and this often exceeded what was anticipated.

While Mr. Charlton gave liberally to charitable institutions in many other cities, his local gifts and investments materially aided in the development of the industries of Fall River. When he became the chief sponsor for the Charlton Mills in 1919, the city added to its cotton and silk manufacturing industry a mill built upon the most modern lines. It spun exceptionally fine yarn and sold as fine a grade of cloth as the city produced. When he financed the construction of a new wing to the Truesdale Hospital at a cost of half a million dollars, he completed the equipment of a modern medical center. His community gained in importance and repute, and his friends gained in financial and political knowledge, because they counted in their number him, who was a director of the city's largest bank, and also of the largest bank in the State; because he was a leading manufacturer, and our most successful merchant as well as an executive of the largest chain-store system in the nation; because he had accurate knowledge of national policies, close contact with political leaders, and was pleased to impart his knowledge and to help, by his influence and advice, those whom he deemed worthy. He was a director of the New Haven Railroad and trustee of the State-controlled street railroad. President Coolidge chose him as chairman of the Coolidge Fund for the Clark School in Northampton, and he served as a member of the War Industry Board by appointment of President Wilson. For his services in the first World War the French government awarded him a decoration.

The writer is indebted to Mr. Charlton for his selection as attorney for the F. W. Woolworth Co. in the New England district. This appointment was announced in his customary business manner by stating that he had been instrumental in securing the selection, but that he would not lift his finger to influence its retention. "You will have to keep the job through your own good work." Such was his method.

