

Levy Deas: Defender of Fishing Creek

The Growing Pains of a Textile Town

Rock Hill grew explosively following the opening of its first textile mill, the Rock Hill Cotton Factory, in 1881. Additional mills followed in rapid succession. Winthrop College opened in 1895. The Rock Hill Buggy Company and Anderson Motor Company thrived between 1892 and 1923. In the 40-year period after the opening of the Cotton Factory, Rock Hill's population increased more than ten-fold.

Such rapid growth created immense challenges for the community to provide the public services necessary for the wellbeing of its increasingly urbanized residents and businesses. A particularly difficult challenge was the disposal of household and industrial wastes. There was little scientific understanding of various waste streams and their potential for affecting human and animal health. Further, the technologies for effectively treating these wastes did not yet exist. Any effort to curtail these wastes, particularly the waste streams from the growing industries of the town, were in direct opposition to the economic interests of the community's business and political leadership. The result was that untreated wastes were routinely dumped directly into the creeks leading away from the downtown area. The odors of these wastes made living near the creeks uncomfortable and sometimes intolerable.

Rock Hill straddles two drainage basins: to the east, Manchester Creek and its tributaries funnel drainage directly to the Catawba River; to the west, tributaries of Fishing Creek collect runoff and deliver it to the Catawba River twenty five miles south near Great Falls. The rail line running to the east of White Street roughly defines the boundary between the Manchester Creek basin and the Fishing Creek basin.

Many of Rock Hill's early industries were concentrated in the Watson's Branch section of the Fishing Creek basin including the Rock Hill Cotton Factory (1881), the Globe (later Victoria) Mill (1890), the Rock Hill Buggy Company (1892), the Arcade Mill (1896), the Victoria Yarn Mill #2 (1915, later Rock Hill Body Company), the Wymojo Mill (1909), and a gas plant, among many others. In addition, the downtown area, surrounding neighborhoods to the south and west and Winthrop College (1895) all sent runoff and wastes to Watson's Branch. The city operated two waste treatment facilities along Watson's branch, a sewage disposal plant (a large septic tank called an Imhoff tank) located upstream of the Arcade Mill and the other called the Clinton Beds located downstream from the Arcade Mill. Both operated by filtering raw wastes through gravel and sand to remove solids before aerating the liquids and discharging them into Watson's Branch.

Beginning in the 1890s, Watson's Branch was notorious for its pungent odors. In 1934, brothers E. W. and B. M. Sturgis, long-time residents along Watson's Branch of Fishing Creek, "described the stench there, with its history since the Victoria Mill arrived [1890], and made

much worse by Winthrop college building [1895].”¹ Also in 1934, Alex Bailey, a 50-year resident along Fishing Creek stated “Watson’s Branch... has smelled badly for 35 years.”² C. H. Hailey, who began residing near Watson’s Branch in 1897, recalled that “... the branch and the creeks have smelled badly since 1898, at least.”³

Some residents afflicted by the putrid creeks took legal action seeking to stop the pollution. In 1917, Elizabeth Huey and others filed a lawsuit against Hamilton Carhartt Mills (former Rock Hill Cotton Factory). The suit alleged that “...since certain dyestuffs and refuse from the mill have been poured into the branch that runs through the [Huey] pasture it has been impossible for their cows to drink from the branch and the use of the land for pasture has necessarily been discontinued.”⁴ Huey demanded \$10,000 in damages and a halt to the dumping of wastes into the creek. She lost the suit.⁵ Also in 1917, the Sturgis brothers mentioned above, along with two other family members, filed lawsuits against the City of Rock Hill for the pollution of Watson’s Branch. In a case that was appealed to the SC Supreme Court, the Sturgis family was unsuccessful in collecting damages or in forcing the city or its industries to amend their wastewater treatment processes.⁶ (Though the Supreme Court decision did acknowledge “The testimony shows that said stream was foul for many years... the foulness of the stream had the natural effect of generating odors and of poisoning the atmosphere”⁷). Afterwards, the sometimes deplorable conditions along Watson’s Branch went largely unchallenged for more than a decade.

Levy Deas

Levy Deas was born in Union County, North Carolina around 1874 or 1875, the son of Wilson Nelson Deas and Mary Anne Rollins.⁸ According to census records, he had six years of formal education.⁹ Around 1896 he married Mittie Howie of Fort Mill and in 1900 the couple was living in Rock Hill with their first child.¹⁰

Deas attempted many different jobs and businesses during his early adulthood, seemingly without satisfaction or long-term success. In 1902 he was working as a “sewing machine man.”¹¹ By 1909 he was living in Concord, NC, profession unknown.¹² In 1912 he was back in Rock Hill

¹ “Testimony On The Stand.” Yorkville Enquirer, December 14, 1934.

² Ibid.

³ Ibid.

⁴ “Suits Filed In The Court Of Common Pleas.” The Evening Herald, February 6, 1917.

⁵ “Verdict For Carhartt.” The Evening Herald, December 8, 1917.

⁶ “Sturgis v. City of Rock Hill, 112 S.C. 485: S.C., Judgment, Law, Casemine.Com.” www.casemine.com/judgement/us/5914a8b5add7b04934702670. Accessed 15 Nov. 2023.

⁷ Ibid.

⁸ Levy Deas Obituary. The Evening Herald, December 29, 1962.

⁹ 1940 US Census, York County, South Carolina, population schedule, Bethesda Township, enumeration district 46-5, sheet number 1A, household 1, Levy Deas. [Http://www.Familysearch.com](http://www.Familysearch.com).

¹⁰ 1900 US Census, York County, South Carolina, population schedule, Catawba Township, City of Rock Hill, enumeration district 90, dwelling 27, family 28, Levy Deas. [Http://www.Familysearch.com](http://www.Familysearch.com).

¹¹ “Local and Personal Paragraphs.” The Evening Herald, July 19, 1902.

¹² “Local And Personal Around The City.” The Evening Herald, February 6, 1909.

as the owner of Levy Deas' Dairy and delivering ice cream to local residents.¹³ In 1915 he was owner/operator of a retail store in downtown Rock Hill selling fruits, nuts and candy.¹⁴ By 1916 his business had expanded to include a full grocery and restaurant – while still delivering ice cream from his own dairy.¹⁵ ¹⁶ Something happened to his business enterprises in 1917-18 – possibly financial failure – as he was reported living in Fort Mill, the home of his wife Mittie's family.¹⁷ He returned to Rock Hill to work as a metal worker at the Anderson Motor Company in 1918.¹⁸ In 1922 Levy and Mittie were living on Hutchinson Street in Rock Hill and Levy was working as a carpenter and yard foreman at the Blue Buckle Mill.¹⁹

The turning point in Deas' work life occurred in 1923 or 1924 when he purchased the old McElwee Mill located where Rambo Road crosses Fishing Creek, about 5 miles southwest of downtown Rock Hill. The mill had likely been constructed in the 1870s but by the early 1920s had apparently ceased to operate. Deas restored the mill and mill pond, installed new ginning machinery, and added an electric turbine to provide power to his nearby home. His innate mechanical skills led one source to note that Deas “had the mind of an engineer.”²⁰ On September 22, 1924 he announced through *The Evening Herald* the reopening of the mill to grind corn and gin cotton. Deas eventually acquired a total of 70 acres surrounding the mill and operated a farm in addition to the mill.

The Bleachery Comes To Rock Hill

Rock Hill Printing and Finishing Company, known locally as the Bleachery, was an immense factory for bleaching, dyeing, printing and finishing cotton and later rayon cloth. The Bleachery opened in late 1929 on the site of the former Anderson Motor Company near White and Laurel Streets. The site had been vacant since the failure of the Anderson Motor Company in 1924. Cloth printing and finishing plants of this era required millions of gallons of water per day for their bleaching, dyeing and printing processes. These operations then generated millions of gallons of tainted wastewater that required a large stream for discharge and dilution. The Anderson Motor Company site could supply neither a ready supply of water nor an adequate discharge location. Commonly, cloth printing and finishing plants of this day were located adjacent to rivers that could supply these critical needs.

In order to secure a commitment from M. Lowenstein and Sons to build and operate the Bleachery on the former Anderson Motor Company site, the City of Rock Hill pledged to construct a new water system to serve the Bleachery: a pump station on the Catawba River, 5-6

¹³ Display advertisement for Levy Deas Dairy. *The Evening Herald*, October 1, 1912.

¹⁴ “Levy Deas Will Open New Fruit Store.” *The Evening Herald*, September 22, 1915.

¹⁵ Display advertisement for Levy Deas Store and Restaurant. *The Evening Herald*, June 13, 1916.

¹⁶ Display advertisement for Deas' Cream. *The Evening Herald*, July 18, 1916.

¹⁷ “Will Return to Rock Hill.” *The Evening Herald*, November 2, 1918.

¹⁸ United States World War I Draft Registration Cards, 1917-1918, Levy Deas. FamilySearch.org. (n.d.). <https://www.familysearch.org/ark:/61903/1:1:KZ6T-3FN>.

¹⁹ “McElwee or Deas Grist Mill.”

<https://www.rootsandrecall.com/york-county-sc/buildings/mcelwee-or-deas-mill-on-fishing-creek/>.

Accessed November 15, 2023.

²⁰ “What Levy Deas Is Doing.” *Yorkville Enquirer*, December 21, 1934.

miles of underground pipes (mostly under Cherry Road) to reach the Bleachery site, and a water filter plant and reservoir located on the Bleachery site. In addition the city contracted to receive all of the Bleachery's wastewater into its sewer system, and provided an indemnity in favor of the Bleachery for any liability that might result from the effluent of the plant. Thus, the Bleachery was absolved from any responsibility for treating its wastewater or from any damages that might result from its discharge of untreated wastes. When the Bleachery opened in late 1929, the city had completed the new water system. However the "sewer system" provided by the city to accept the Bleachery's wastewater was merely a large culvert designed to carry untreated wastewater from the factory to Watson's Branch, near West Main Street.

The Bleachery began its operations in late 1929, within weeks of the October 29, 1929 crash on Wall Street and the onset of the Great Depression. Starting with an initial workforce of 300, the Bleachery defied the economic turmoil roiling the nation during the 1930s and grew to employ nearly 2,000 workers by 1940. Almost overnight, the Bleachery became Rock Hill's largest and most important business and its most potent defense against a brutal economic depression. Its importance to the people of Rock Hill, the surrounding region, and local governments during the 1930s cannot be overstated.

The Bleachery's Wastewater Comes to Fishing Creek

As the Bleachery ramped up to full production in the early days of 1930, the farmers along Fishing Creek saw a rapid deterioration of their already impaired stream. In 1931, the *Yorkville Enquirer* described the creek as "full of some dark substance and... it smelled like six hundred gross of rotten eggs dropped by an airplane."²¹ Levy Deas in 1934 described the changes as follows:

He told how he was living on Fishing creek, farming and running a mill and gin, in pleasant, bucolic surroundings, when the Bleachery started and turned heaven into purgatory. How the odor from the creek for the last four years has been so pungent as to make the family get up at night and leave the house... How the swimming pool [mill pond] of his children became a cesspool and dead fish... stunk to high heaven... [T]he conditions get worse in a dry spell like last summer.²²

Levy Deas and neighboring farmers along Fishing Creek began to talk among themselves about the putrid condition of Fishing Creek and the impact it was having on their lives. What could they do to stop the pollution? How could farmers wage a battle against a big corporation and the City of Rock Hill? Others had tried and failed to force changes through lawsuits. Why would one expect the outcome to be different this time? There were no laws or regulatory agencies at the time that could help. The business and political leaders of Rock Hill and York County were all standing squarely behind the Bleachery, particularly in the midst of a horrible depression. The farmers, if they acted, would clearly be fighting alone, against great odds.

²¹ "Big Damage Suit Looms." *Yorkville Enquirer*, July 24, 1931.

²² "Old Fishing Creek Case." *Yorkville Enquirer*, December 7, 1934.

By July 1931, about 20 months after the Bleachery began operations, about three dozen farmers, assisted by attorneys R. B. Hildebrand (York), Thomas McDow (York) and D. W. Robinson (Columbia) had decided to pursue a class action lawsuit against the Bleachery. Early reports suggested that the City of Rock Hill would be a defendant also.²³ The opening salvo of the legal action was a public experiment conducted by York County Game Warden Ben Faris on July 17th. Attending the experiment were attorneys Hildebrand and McDow, representing the farmers, attorney W. Black Wilson, representing the Bleachery, Dr. Roy Sumner, health officer for Rock Hill, Dr. J. T. Dickson, Levy Deas, Walter Jenkins and Joseph Easley, the last two high-ranking managers and engineers at the Bleachery, and six or so other spectators and witnesses (likely other farmers). *The Yorkville Enquirer* described the experiment as follows:

*He [Faris] went down to the McElwee Mill with half a dozen hearty and spry catfish and placed the fish in a net in the water of Fishing creek at 10:25 o'clock last Friday morning. At 12:25 o'clock, just two hours later, all the fish were dead.*²⁴

Levy Deas v Rock Hill Printing and Finishing Company

About 3 weeks later, on August 6, 1931 the lawsuit was filed. Levy Deas agreed to be the plaintiff for this crucial test case which, if successful, would open the door for a class action lawsuit involving all the farmers. The lawsuit was directed against the Bleachery and its General Manager Archie Joslin. The city was not named as a defendant, perhaps due to the failure of previous suits against the city, perhaps due to certain liability protections or other legal advantages that cities have which private corporations do not enjoy, and perhaps to avoid prejudicing potential jurors from Rock Hill. The lawsuit asserted:

"That by the wrong, wilful (sic) and negligent acts of [the Bleachery], the waters of Fishing Creek... have become foul, poisoned and polluted... The waters give off and cause noxious odors... [that] invade the dwelling house of [Levy Deas]... making... [the house] unfit for use as a home... the poisons, odors and gases impair... work on the farm and... the mill and cotton gin and machinery... [The waters] are unhealthful... to animal life causing the death of chickens, ducks and geese... the death of fish... and seriously injuring domestic animals..."²⁵

The suit demanded that damages of \$25,000 be paid by the Bleachery to Deas as compensation for the diminished value of his farm and mill caused by the Bleachery's pollution. More significantly, the suit asked the court to issue an injunction ordering the Bleachery to cease its "unlawful" discharge of wastes into the Fishing Creek basin.²⁶ Such an injunction could conceivably force the Bleachery to curtail or suspend its operations. This threatened the loss of hundreds of jobs during a severe depression, the loss of significant local government taxes, and

²³ "Big Damage Suit Looms." *Yorkville Enquirer*, July 24, 1931.

²⁴ *Ibid.*

²⁵ "Damages Of \$25,000 Asked By Levy Deas." *The Evening Herald*, August 7, 1931.

²⁶ *Ibid.*

the financial well being of the Bleachery's owner, M. Lowenstein and Sons, and its investors and lenders. Perhaps a more likely outcome of a verdict for Levy Deas would have been an order for the Bleachery to purify its waste stream.

The public reaction was swift and strong. An article in *The Evening Herald* compared Deas and his allies to the earlier generation of plaintiffs seeking to stop the dumping of industrial wastes into the tributaries of Fishing Creek. Quoting a judge from the 1917 *Sturgis v City of Rock Hill* case, it branded the plaintiffs as "obstructionists to the public good."²⁷ This view, probably shared by the business leaders, political leaders and workers of Rock Hill, defined the public good as being coincident with the wellbeing of Rock Hill's businesses. There seemed to be little sympathy for the farmers of Fishing Creek. *The Evening Herald* then published an editorial describing the "unrest" of the workers and "their fear of greater unemployment than already exists" in response to Deas' lawsuit. The newspaper counseled that "alarm at this time is uncalled for and without serious foundation," alluding to the failure of other lawsuits in the past.²⁸

The start of the trial was delayed for more than 3 years by a succession of legal maneuvers by both parties. A summary of these actions is below.

- August 1931: The Bleachery petitions to have the lawsuit moved to federal court (denied)
- August 1931: The Bleachery petitions to have Archie Joslin, General Manager of the Bleachery, removed as a defendant in the lawsuit (denied)
- November 1932: Circuit Court agrees to a petition from the City of Rock Hill to make the City a co-defendant with the Bleachery in the case. The trial date is delayed to allow the City adequate time to prepare its defense.
- August 1933: The decision to make the City a defendant is reversed by SC Supreme Court

After the disposition of all appeals related to the decisions listed above, a trial date was finally set for the first week of December 1934, three years and four months after the suit was filed.

The Trial

Levy Deas' lawsuit was presented to a common pleas court jury at the York County courthouse in York beginning on December 5, 1934.²⁹ The presiding judge was H. F. Rice, the resident judge in SC's second judicial district (Aiken SC area). The jurors, all white males, were residents of York County. The trial was seen at the time as "one of the largest legal battles ever to be staged here."³⁰ Two local newspapers, *The Evening Herald* and the *Yorkville Enquirer*, provided intensive coverage of the trial.

²⁷ "Threat Of Lawsuits Interest Local People." *The Evening Herald*, August 3, 1931.

²⁸ "Rumors Bring Unrest." *The Evening Herald*, August 5, 1931.

²⁹ "Old Fishing Creek Case." *Yorkville Enquirer*, December 7, 1934.

³⁰ "Big Damage Suit Looms." *Yorkville Enquirer*, July 24, 1931.

Levy Deas was represented by attorneys R. B. Hildebrand (York), Thomas McDow (York), Clarkson McDow (York), and D. W. Robinson, (Columbia). Robinson was the lead attorney. Thomas McDow played an important role for the plaintiff's legal team throughout the trial. However, he was unwell in the closing days of the trial, creating the need for his son Clarkson to step in at key moments.³¹

The Bleachery was represented at trial by W. Black Wilson of Rock Hill, with support from John R. Hart of York. The City of Rock Hill's attorneys were interested observers throughout the trial.

The first day of the trial was dominated by arguments from the Bleachery that the City of Rock Hill, not the Bleachery, was responsible for the torts claimed by Deas. The goal, apparently, was to seek a dismissal of the lawsuit. Ultimately, the judge rejected this argument. The judge also agreed to a motion from the plaintiff's attorneys that the jury should not hear any references to the 1929 contract between the Bleachery and the City of Rock Hill. This was a significant victory for the plaintiff.³²

The next day, December 6, the jury was formed and the opening arguments presented. Levy Deas was then called as the first witness. He described in detail the changes to Fishing Creek since the opening of the Bleachery and the impacts that the putrid condition of the creek had on his family, his farm animals, his mill equipment, and the value of his property. On cross examination, the defense challenged the values he claimed for his property and suggested that he was greatly exaggerating the extent and impact of pollution in the creek. The next witness was Robert Poag, a neighbor of Deas. He, too, described the changes that had occurred to Fishing Creek since the opening of the Bleachery. He fondly recalled picnics and fish fries at Deas' pond; these events ended with the opening of the Bleachery. Poag described multi-colored water in the creek – brown, blue, black and other hues. He stated that he would not live on Deas' farm due to the terrible conditions and supported the contention that the value of the property had been significantly decreased by the pollution of the creek.³³

The third day of the trial began with testimony from 11 witnesses for the plaintiff, including game wardens from York and Chester Counties and multiple neighbors of the Deas farm. All testified to the pollution of Fishing Creek and the impacts of that pollution on Deas' family. Some described their own experiments with placing live fish in the creek. The fish were said to have died in only 5 to 10 minutes. Deas was recalled to the stand to place into evidence a severely corroded iron rod from his water wheel, damage purportedly accelerated by chemicals in the water.³⁴

The last witness for Levy Deas was Dr. Guy Flemming Libscomb, head of the chemistry department at the University of South Carolina. Libscomb testified that he had analyzed samples of water taken from Deas' mill pond and described the water as noxious. He pointed to

³¹ "Fishing Creek Trial." Yorkville Enquirer, December 14, 1934.

³² "Old Fishing Creek Case." Yorkville Enquirer, December 7, 1934.

³³ Ibid.

³⁴ "Experts In Deas Case." Yorkville Enquirer, December 11, 1934.

the Bleachery's dyeing operations as the source of the contaminants in the water.³⁵ He introduced into evidence fruit jars of odorous water. Describing the most memorable scenes of the trial, the *Yorkville Enquirer* reported "Each of the samples of water in quart fruit jars was passed around the jury and each juror solemnly smelled it..."³⁶ The jurors would be asked to "decide the case finally with their noses."³⁷

Following the conclusion of Professor Libscomb's testimony, the defense countered with its own expert witness, Dr. F. L. Parker of the chemistry department of the Medical College of Charleston. Parker asserted that the problems at Deas' pond were the result of the City of Rock Hill's sewage disposal and boldly claimed that the large volume of the Bleachery's wastewater discharge actually improved the water quality at Deas pond by diluting the discharge of the city's sewage treatment plants. He also entered into evidence a dozen fruit jars of water he had collected from various locations along Fishing Creek and passed these among the jurors to sniff. Dr. Parker exhibited samples of dyes used at the Bleachery and then, dramatically, drank from a jar containing a diluted specimen of one of the dyes to demonstrate its benign quality. Later in the trial, Dr. Libscomb noted that Dr. Parker had been very selective in choosing the jar from which to drink. Other jars, he said, contained the deadly poison saffronine, a chemical used in dyeing textiles.

Day four of the trial, Monday, December 10, brought the Bleachery's plant chemist and assistant superintendent, Joseph Easley, to the stand. He described in detail the bleaching and dyeing processes at the Bleachery, the great dilution of chemicals and dyes released into the creek, and stated that the Bleachery's effluent was not responsible for killing fish. That, he said, was caused by the city's waste discharges. Eight additional witnesses for the Bleachery followed Easley.

December 11 was the final day of testimony by witnesses for the Bleachery, 11 in all. The most interesting of these witnesses was a "Quartet of Farmers," all said to be respected men from western York County. These four described an inspection tour that they had made the previous day, December 10, at the request of the Bleachery's attorneys. They started at the Bleachery dye room, then moved to its outlet to Watson's Branch, then to the city's sewage disposal sites and ended at Deas' pond. They reported that the discharge from the Bleachery had a mild soap suds smell, but that the discharges from the city's waste disposal sites had a significant odor and the water a black color. Upon arriving at Deas' pond they saw cows in an adjacent pasture

³⁵ Libscomb identified at least two specific chemicals coming from the Bleachery's dyeing operations that were present in the water samples: aniline, also known as benzenamine, and saffronine, also known as safrinin or safrinine. Both chemicals are known to be derivative of textile dyeing operations. According to modern investigations by the US Centers for Disease Control, "Aniline is a highly toxic systemic poison that is absorbed well by inhalation and through the skin." It is identified as a "probable human carcinogen" and is noted to be highly toxic to aquatic life. Saffronine is classified today as a hazardous substance with the potential to cause serious damage to the eyes, respiratory system and skin. Whether the levels of these chemicals in Deas' pond were sufficient to constitute a threat to human health cannot be determined today. However, the devastation of aquatic life at Deas' pond described during the trial seems consistent with the presence of these and/or other chemicals at high levels.

³⁶ "Testimony On The Stand." *Yorkville Enquirer*, December 14, 1934.

³⁷ "Experts In Deas Case." *Yorkville Enquirer*, December 11, 1934.

and cow tracks down to the edge of the pond, suggesting that the cows were watering there. The “Quartet” also entered into evidence fruit jars of water that they had collected at various locations along the route (bringing the total number of fruit jars of water entered into evidence to 19). The jurors dutifully sniffed these. The “Quartet” asserted that the Bleachery was not the source of contamination at Deas’ pond, rather it was the city’s waste disposal sites that were the problem. Further, they suggested that the problems at Deas’ pond were greatly exaggerated, as the evidence of the cows drinking the water would suggest.³⁸

The next day, December 12, brought three hours of closing arguments by attorneys for both sides.

- Thomas McDow (for Levy Deas) “...painted a word picture of an elysium at the Deas place, before the bleachery came to Rock Hill, and another of purgatory there now.”³⁹
- D. W. Robinson (for Levy Deas) sarcastically criticized the testimony of Dr. Parker. He argued “If the bleachery pollutes a stream and 20 others do it too, that’s no exculpation for the Rock Hill Printing and Finishing company.” He “recounted several suits in the past against various Rock Hill mills for polluting the water...when one is sued it puts the blame on another one.”⁴⁰
- Clarkson McDow (for Levy Deas) averred that Dr. Parker was a mercenary witness – he would testify for anyone who was willing to pay him. He also questioned the credibility of the testimony from the “Quartet”, saying these men lived too far from Fishing Creek to have informed opinions.
- John R. Hart (for the Bleachery) stressed to the jury the importance of the evidence presented by the “Quartet” based on their inspection tour on December 10. It is telling that the defense attorneys made this a key part of their closing argument.
- Black Wilson (for the Bleachery) concluded “that stream was absolutely ruined for man or beast years before Deas bought his property, and he knew it.”⁴¹

Judge Rice then gave final instructions to the jury, explaining the legal concept of riparian rights and how “reasonable use” of the stream by all property owners applied to the Deas lawsuit: “The right of different proprietors on a stream is in harmony with all the rights of all of them, and reasonable use of the stream is for the jury to determine in light of all of the circumstances.”⁴² His specific instructions included the following:

- “It is on Mr. Deas to show, not only that noxious, disagreeable odors exist, but that the efferent from the Rock Hill Printing and Finishing company was a proximate cause of this.”
- “If the stream was already polluted, then the plaintiff cannot recover, unless the pollution added [by the Bleachery] rendered the water less usable by additional pollution...”⁴³

³⁸ “Testimony On The Stand.” Yorkville Enquirer, December 14, 1934.

³⁹ “Fishing Creek Trial.” Yorkville Enquirer, December 14, 1934.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

At 5:52 pm on Wednesday, December 12, the trial concluded and the jury began its deliberations. The judge, apparently expecting quick work by the jury, made arrangements to reconvene the court if a decision was reached by 10:30 pm. There was no verdict by 10:30. The jurors remained at the courthouse through the night. Rumors began to circulate of a mistrial. After breakfast at a local restaurant, the jurors resumed their deliberations. Soon after, the jury foreman requested that a fruit jar of water that had been entered into evidence, collected from the Deas pond in 1931, be made available to the jury. This was granted. A short time later, the foreman met with the judge and made a request on behalf of 9 of the jurors to visit Deas' pond. After consultations with attorneys from both sides it was agreed that the full jury, under the supervision of the sheriff, would visit six sites in sequence along the waterway leading to Deas' pond: the Bleachery, the Bleachery's discharge into Watson's Branch, the city's sewage disposal plant, the Arcade Mill (a textile plant also emptying wastes into Watson's Branch), the Clinton sewage bed (another sewage outfall of the city), and, finally, Deas' pond.⁴⁴

It is likely no coincidence that the jury's request was an exact reproduction of the inspection tour by the "Quartet" just three days before. Later reports indicated that the jury was split on the morning of December 12, with seven members supporting the Bleachery and five supporting Levy Deas.⁴⁵ The deadlocked jury was looking for something, anything, that would allow them to reach a consensus and go home. The message from the "Quartet", "There's nothing to see here," must have created a moment of hesitation and doubt for every member of the jury. Thus, the request to see and experience what the "Quartet" had described.

Upon arriving at Deas' pond the jurors perceived no odors. A flock of ducks moved slowly from one side of the pond to another. Fresh cow tracks leading to the edge of the pond were visible, just as the "Quartet" had described. The scene was pastoral and idyllic. Standing near the pond, the jurors conferred. A decision had been reached. Returning to the courthouse the jurors met for just 12 minutes before moving to the courtroom. The verdict was read at 4:58 pm, 23 hours after the jury began its deliberations. The Bleachery had prevailed.⁴⁶

Reflections on the Trial

So, how do we assess the verdict of a jury which heard hours of testimony, from witnesses representing both the plaintiff and defense, about the stomach-turning stench of Watson's Branch, lasting for more than 30 years, and then seemingly rendered a verdict based on bucolic conditions witnessed on a single day (or two days if you count the testimony from the "Quartet")? And, how do we explain the lack of odors, contamination and visible impacts on aquatic life and farm animals found by the "Quartet" on December 10 and by the jurors on December 13?

First, it must be acknowledged that the judge set out an impossible standard for the jury: "If the stream was already polluted, then the plaintiff cannot recover, unless the pollution added [by the

⁴⁴ "The Jury From Missouri." Yorkville Enquirer, December 14, 1934.

⁴⁵ "Echoes From The Jury Room." Yorkville Enquirer, December 18, 1934.

⁴⁶ Ibid.

Bleachery] rendered the water less usable by additional pollution...⁴⁷ Given the very limited scientific data available in 1934 (use your nose!), the lack of understanding for how certain chemicals affect human, animal and aquatic health, the multiplicity of sources of pollution entering Watson's Branch and the conflicting testimony of the two expert witnesses, it would have been inconceivable for the jury to render a rational verdict meeting the legal standards defined by Judge Rice. However, juries can and do issue verdicts in such cases. The risks to the Bleachery were real. In the end, the defense strategy for winning a verdict for the Bleachery seemed to rest heavily on the testimony from the "Quartet".

The testimony from the "Quartet" was problematic for several reasons. First, these four farmers had no special knowledge, training or expertise to judge the qualities of the effluent from the Bleachery, to assess the levels of contaminants in the creeks and determine their sources, or to determine the impacts of pollution in the creek on Levy Deas' farm and mill. None of the four even lived in proximity to Fishing Creek and thus did not have regular exposure to the conditions there. There is no record as to whether, or how strenuously, the plaintiff's attorneys challenged this testimony.

Second, the timing of the "Quartet's" inspection tour is highly suspicious. After having more than three years to plan the Bleachery's defense, the Bleachery's attorneys, on the last day of testimony in the trial, bring to the stand a group of four farmers, lacking any special expertise, who the day before were asked, by the defense attorneys, to make an inspection of sites along the waterways between the Bleachery and Deas' pond. Obviously, the Bleachery's attorneys knew in advance the results of this exercise. The "Quartet" would report: "There's nothing to see here, Deas has fabricated or exaggerated the extent of any problems, and besides, it's the city that is responsible if there is any problem." This testimony directly contradicted that of the defense's own witnesses who had described the terrible odors and contamination of Watson's Branch and Fishing Creek by industrial polluters for more than 30 years. What was the motive for this charade? My guess is that the defense attorneys recognized following the confusing, conflicting testimony of the two expert witnesses on December 7 that they had effectively neutralized Levy Deas' expert witness and scientific analysis through the testimony of their own expert witness. Now, to win the case they needed to give the jury a rationale for discounting the torts claimed by Deas. They hoped that testimony by four respected citizens saying that "There's nothing to see here, folks" would be sufficient, in the end, to convince the overwhelmed jurors to render a verdict in favor of the Bleachery. So, during the weekend of December 8-9, the defense likely organized the "Quartet" and hastily arranged for their inspection tour on December 10. The "Quartet" testified on December 11. The defense attorneys emphasized the testimony of the "Quartet" in their closing arguments on December 12. The ultimate triumph of this defense strategy occurred when the jury asked to repeat the "Quartet's" inspection tour on December 13. At this point, the defense had effectively redefined the basis of the jury's decision from the impossible legal standard set by Judge Rice, to the question "Would an ordinary person see or smell evidence of severe pollution at Levy Deas' pond."

⁴⁷ "Fishing Creek Trial." Yorkville Enquirer, December 14, 1934.

This, then, begs the question: Why were there no odors, visible contamination of the creek, or impacts on farm animals evident on December 10 or 13? As described by Levy Deas and others during the trial, the putrid conditions of the creek changed from day to day and season to season. For example, Deas noted that “the conditions get worse in a dry spell like last summer.”⁴⁸ *The Yorkville Enquirer*, summarizing the words of farmers along Fishing Creek stated “The... farmers say the water of Fishing creek is much worse sometimes...”⁴⁹ It is likely that hot weather and high water temperatures, along with a lack of rain and the resulting stagnation of the creek would contribute to worsening the impacts of the polluted creek on adjacent landowners. Further, the operating schedules of the mills and other businesses would impact the volume of discharges entering the creek. For example, there are reports that stream conditions improved when the mills were closed for Christmas or summer vacations.⁵⁰

So, what factors might have influenced conditions along the creek during the second week of December 1934? First and foremost is the weather: it is reasonable to assume that the cold air and cool water temperatures of winter would tend to dampen the biological and chemical processes that would give rise to putrid odors. Here are the daily high and low temperatures for the relevant period, taken from *The Evening Herald* and provided by the Winthrop College weather station:

Date	Morning Low Temp	Afternoon High Temp
Saturday, December 8	24	45
Sunday, December 9	21	45
Monday, December 10	21	42
Tuesday, December 11	20	34
Wednesday, December 12	12	41

The Evening Herald is missing the weather data for Thursday, December 13, but *The Charlotte Observer* reported a morning low of 18 degrees and an afternoon high of 39. This data tells us that the second week of December 1934 was exceptionally cold in Rock Hill. Given this, it is not surprising that there were no odors and no visual evidence of biological growth that might result from contamination. If the trial had taken place in August, it is unlikely that the defense attorneys would have arranged for the “Quartet” to make an inspection tour.

Another factor that may have influenced conditions on the creek on December 10, the day the “Quartet” made its tour, is the work schedule of the Bleachery. The Bleachery operated three shifts, Monday through Friday. The bleaching, dyeing, printing and finishing operations were shut down on weekends and special crews did clean up and maintenance work. So, when the “Quartet” visited Deas’ pond on December 10, it was after a period of at least 48 hours during which the Bleachery had not operated and there would have been no discharges. Perhaps the defense attorneys purposefully arranged the “Quartet’s” inspection tour for Monday, December

⁴⁸ “Old Fishing Creek Case.” *Yorkville Enquirer*, December 7, 1934.

⁴⁹ “Big Damage Suit Looms.” *Yorkville Enquirer*, July 24, 1931.

⁵⁰ “Old Fishing Creek Case.” *Yorkville Enquirer*, December 7, 1934.

10 rather than the previous week knowing that evidence of the Bleachery's waste streams would be minimized following the weekend shutdown?

According to Clarkson McDow Jr., grandson of Thomas McDow and son of Clarkson McDow Sr., Levy Deas' attorneys walked away from the trial with the belief that the Bleachery had in some way conspired to influence the outcome of the trial.⁵¹ One possibility is that the Bleachery flushed the stream with fresh water during the weekend of December 8-9 to eliminate any odors or traces of contamination. Perhaps the Bleachery added extra fresh water to its waste stream during the trial to further dilute evidence of the contaminants? The odd circumstances of the "Quartet" and the important role it played in the outcome of this trial give rise to suspicions and conspiracy theories. The answers are lost to history.

Losing the Battle, Winning the War

Levy Deas and the farmers of Fishing Creek failed to win the verdict that they hoped would put an end to the Bleachery's dumping of untreated wastes into the Fishing Creek watershed. Deas' lawsuit, however, ultimately did help to achieve the farmers' goals. Deas' lawsuit was an existential threat to the continued operation of the Bleachery, and a major financial threat to the City of Rock Hill which would be obligated to fund any damages resulting from the Bleachery's discharge of untreated wastes. Both parties had a strong interest in eliminating this threat. So, by January 1933, seventeen months after Deas' lawsuit was filed, the city had developed a plan for a system of pumps and pipes to collect wastewater from the Bleachery and other industries located in the Fishing Creek basin and redirect these wastes to the Catawba River rather than Fishing Creek.⁵² These were still raw, untreated wastes, but now they would be going to the Catawba River which had a much greater capacity for accepting and diluting these wastes than Fishing Creek. A \$263,000 grant and loan from the Public Works Administration, a depression-era recovery program, provided most of the funding for the project.⁵³ In September 1934, on the eve of the Levy Deas trial, the city selected a contractor to build the new wastewater collection system.⁵⁴ The Bleachery's wastewater was diverted to this new system in May 1935.⁵⁵

This new system should have put an end to industrial wastes going into Fishing Creek. Yet, there are persistent reports from people who grew up near Watson's Branch in the 1940s and 1950s of the creek being tinted the colors of the dyes in use at the Bleachery. The creek was nicknamed "Dye Branch" as a result. This anecdotal evidence suggests that not all of the Bleachery's discharges were diverted to the Catawba River. Perhaps these dyes were contained in surface runoff that was not captured in the new sewer system. No new lawsuits or public complaints from the people living along Fishing Creek appear in the local newspapers after the

⁵¹ Interview with Clarkson McDow. July 31, 2023.

⁵² "Sewer Project For City Part Of Relief Plan." The Evening Herald, January 10, 1933.

⁵³ "Stage All Set For Sewer Project At Rock Hill." The Charlotte Observer, September 23, 1934.

⁵⁴ "Council Awards Sewer Contract to Blythe Bros." The Evening Herald, September 28, 1934.

⁵⁵ "Cut More Lines Into Sewer Main." The Evening Herald, May 13, 1935.

conclusion of the Levy Deas trial. One hopes that the conditions that so afflicted Levy Deas and his neighbors improved dramatically.

Other lawsuits against the Bleachery related to the pollution of Fishing Creek remained active at the conclusion of the Deas trial. In December 1935 the trial of a lawsuit by Frank Strait against the Bleachery related to the pollution of Fishing Creek was continued into 1936.⁵⁶ In March 1936 the City Council rejected any settlement of multiple lawsuits against the Bleachery that might involve the city.⁵⁷ After these news reports the newspaper record is silent. Given the precedent established by the Levy Deas trial, and the city's rerouting of industrial wastes to the Catawba River, it is likely that these other suits were withdrawn or failed.

Levy Deas' Legacy

One week after the verdict, the *Yorkville Enquirer* published an article titled "What Levy Deas Is Doing." The article recounts Deas' success in building a successful milling and ginning operation on Fishing Creek and marvels at his technological savvy in building "the best designed water power of its class in America." Deas modestly credited his success to "only work and using his head."⁵⁸

During the course of the lawsuit, Deas came to personify the spirit and unity of the rural Antioch community and nearby homes and farms in southern York County. He, alone, shouldered the burden of waging a more than three-year public battle against the area's largest and most important business. In doing so, he represented the interests of dozens of other farmers whose names never appeared in the local newspapers. Said the *Yorkville Enquirer*:

*"...the big Deas trial in court here proved... that all his neighbors for miles around like Levy Deas and want to help in whatever he undertakes, even to fighting very large corporations, and a considerable city, in court for four years."*⁵⁹

Perhaps the Bleachery and the city would have eventually constructed the wastewater system that was absent when the Bleachery opened in 1929, without the legal challenges from Levy Deas and other litigants. However, the *Yorkville Enquirer* didn't think so:

"...Levy Deas... compelled a city to borrow money to build a sewer outlet costing nearly \$300,000, which it would not have done and did not do for many years before Levy Deas located on Fishing creek, some miles below Rock Hill, and built that water power dam."

Deas' role in confronting the injustice of a severely polluted waterway and, ultimately, his success in forcing the City of Rock Hill to remove the contamination from that waterway, is a lesson in the power of ordinary people to do extraordinary things.

⁵⁶ "Fishing Creek Case Continued Until April." *The Evening Herald*, December 4, 1935.

⁵⁷ "City Not To Settle Suits." *The Evening Herald*, March 6, 1936.

⁵⁸ "What Levy Deas Is Doing." *Yorkville Enquirer*, December 21, 1934.

⁵⁹ *Ibid.*

Epilogue

Following the trial in 1934, Levy Deas' role as a litigant and champion for Fishing Creek ended. From then on, he lived a quiet life on his farm. He operated his gin until very late in his life.⁶⁰ Deas' name appears in a news article in *The Evening Herald* only once more: in September 1952 he lost his left arm following an accident at his gin.⁶¹

Levy Deas died on December 29, 1962, seven months after his wife Mittie. They are buried in Laurelwood Cemetery in Rock Hill.⁶²

On November 14, 2023, Levy Deas was honored as a "local hero" at the Freedom Walkway in Rock Hill. The Freedom Walkway recognizes individuals in Rock Hill's history who have fought for justice and equality. Three generations of Deas' descendants were present to celebrate his courage.

⁶⁰ Classified ad for Levy Deas' gin. *The Evening Herald*, September 12, 1957.

⁶¹ "Levy Deas Loses Arm In Accident." *The Evening Herald*, September 16, 1962.

⁶² Levy Deas obituary. *The Evening Herald*, December 29, 1962.