

GRAFT REPORT IS SENT BACK AGAIN

COUNCIL DECLINES TO ACCEPT FINDING

Contains Reflection Upon H. M. Fullerton's Discretion Which Aldermen Resent.

(From Saturday's Daily.)

The work of the investigation into the alleged irregularities concerning the award of the paving contract to the Canadian Mineral Rubber Company is not yet over. The investigation committee submitted its findings to the council last night (which will be found below) but the council declined to endorse it, as despite its admitted inability to affix either graft or censure to the names of anyone connected with the city, it nevertheless went so far as to reflect upon the discretion of Ald. H. M. Fullerton in his conversations with the members of the paving committee.

Not unnaturally the reading of the report was the signal for a general protest. Ald. H. M. Fullerton strenuously opposed the adoption of the report in its present condition, and all the other aldermen, with one or two exceptions joined in the chorus, with the result that finally it was agreed that the report be sent back to the commission for amendment, leaving out the obnoxious phraseology in regard to H. M. Fullerton.

Mayor Morley tried to put a snag in the way of the amendment by stating that a report of that kind was like the verdict of a jury and could not be reconsidered or amended. Ald. Moresby pointed out that the report as it stood amounted to no less than a Scotch verdict of "not proven." As indicating the feelings of the aldermen concerning the investigation, it may be stated that the report was the first thing asked for. It could not be submitted right then as Alderman Langley had not signed it. When that commissioner arrived at the city hall, he was handed the report and after reading it he affixed his signature to it and rendered it ready for submission.

In the discussion which followed the reading of the report Ald. Langley expressed his regret that the investigation was ever held. He did not think there was any reflection contained in the report but in order to assure Ald. H. M. Fullerton and the city solicitor of his good opinion of them he took the opportunity there and then of declaring that so far as he was concerned the investigation had proved a complete vindication of both of them. The report follows:

"Your select committee appointed by resolution on the 22nd day of September, A. D. 1911, to hold an investigation under the provisions of the Municipal Clause Act, into certain allegations made reflecting upon one of the aldermen of the city and one of the city officials, in connection with certain contracts of the Canadian Mineral Rubber Company with the city, beg to report as follows:

"First—Your committee sat and heard evidence on the 28th and 29th days of September and on the 2nd, 3rd and 4th days of October, A. D. 1911, and during the course of the investigation invited any persons who could give any evidence upon the subject of the investigation to do so.

"Second—No evidence was brought before your committee reflecting in any way upon your city solicitor.

"Third—No evidence was adduced in substantiation of any allegations made against Alderman H. M. Fullerton. Your committee thinks, however, that Alderman Fullerton may have allowed certain persons connected with the Canadian Mineral Rubber Company to consider that he might assist them in obtaining the contract with the city, though there is no evidence whatever of any corrupt motive in his doing so.

"Fourth—The resolution of the council above-mentioned did not instruct the committee to investigate the award of the way in which the Canadian Mineral Rubber Company were performing the contract but it was alleged and admitted by Mr. Keiser, an official of the company, that the curb and gutter work is now being done by sub-contract with one, C. M. Payne, of Spokane.

"A. J. MORLEY, Mayor.
"W. H. LANGLEY, City Solicitor.
"Committee."

Alderman H. M. Fullerton took the floor before any action could be put to the meeting and stated that he wanted the council to take a decision whether he had been guilty of any wrong-doings in connection with the granting of the paving contract to the Canadian Mineral Rubber company. "The suggestion in the report that I am capable of being led astray is absolutely false and absolutely unfair. I have always endeavored to do my little best for the city of Victoria and I have failed I have failed trying. What the mayor may think of me does not cut any figure. He never says the same thing of anyone to two different people; anyhow, I have failed and I have no doubt that he has also spoken to all of you at different times about me. Everything depends upon the person he is speaking to and I do not think the sentiments he is likely to express regarding any one of us. One thing has become apparent from all this trouble and that is that his private beliefs are not his public beliefs. He has no view for the public and another for himself. Here he has set himself up as an inquisitor and has far exceeded his official duties, but I will leave it to you gentlemen whether I am to get down and out right here."

Alderman Langley could not see any reflections in the report, and therefore when Ald. Bishop moved its adoption he seconded the motion.

Ald. Moresby then came along with

an amendment asking that the objectionable part referring to the alderman leading the company members to believe that he was assisting them, be struck out.

Mayor Morley thought it was impossible to have the report amended. The council would either have to adopt or reject it.

"Then" retorted Ald. Moresby, "if you are desirous of putting technicalities in the way I will move that the report be returned to the commission to be amended in the way I have indicated but striking out the words referred to."

At this stage of the proceedings Ald. Bishop, apparently recognizing that the report contained a possible stigma upon the name of H. M. Fullerton, withdrew his motion for the adoption of the report.

Mayor Morley, assuming upon himself all the blame for what had taken place begged Ald. Bishop to relieve him from the chair in order to say a few words. He traversed the history of the Wilson episode from the beginning to the investigation in which has just closed and claimed that in all his actions the only motive which prompted him was the sense of duty which he owed to the citizens. "I have been abused as no other mayor of the city ever was before and I have stood for more than one year in the hot seat before you but I will say that I have never sat in judgment on any alderman or any city official, nor have I ever expressed any enmity toward those who have opposed me. To the investigation committee I have said back its finding is like asking a jury to take back its verdict. That commission was appointed to prosecute an inquiry and

"Persecute is what you mean" interjected Ald. Fullerton.

Continuing the mayor discussed the inquiry and the various elements of it. In that connection he referred to H. M. Fullerton, K. C. who represented the Canadian Mineral Rubber company at the investigation, and said he had to sit there and listen smilingly to the dyspeptic rantings of the same little gentleman who proceeded against him last spring in the election case. He went on to say that he was perfectly satisfied with the course he had followed. He would continue to do the same thing. "And when the elections came round again I will very probably tell what I think of some of you." This last shot greatly tickled the aldermen because they appeared to be in a position to do the same thing. "You are a scoundrel," said one of the aldermen, "and you are a scoundrel."

After Ald. Gleason had contributed to the debate by expressing his confidence in his colleagues the matter dropped, the understanding being that the report would go back to the commission for amendment as indicated.

NOTICE TO MARINERS

During the working hours of the rock crusher engaged in removing the rock at the entrance of Victoria harbor it has been found necessary to enable the dredge to keep her position to place anchors out, which may lie in the fairway of the channel. The lines in the fairway leading to these anchors will be slackened up to allow vessels to pass night and day until some dolphins are placed on the shoal point side of the channel to which the dredge will then be moved to place the anchors in the way of navigation. The small anchor buoys seen in the fairway only show the position of the anchors and are not to be used for navigation. Buoys attached to the anchors by small lines Marine & Fisheries, Victoria, B. C., 6th October, 1911.

ROBERT DOLLAR ARRIVES.

New Steamship Reaches San Francisco—Many Charters Announced To-day.

San Francisco, Cal., Oct. 7.—The barquentine Chehalis, now in South American waters, has been chartered by R. G. Wood & Co., of Victoria, on the Columbia river for Callao at \$48 3d. The rate is 6d lower than the last previous charter, but does not indicate a dropping market.

Five charter parties were announced to-day as follows: Steam schooner Shna Yak, lumber from Puget Sound to San Francisco, at \$4.25; schooner E. K. Wood, lumber from Gray's Harbor to San Francisco, at \$4.25; schooner C. S. Holmes, lumber from Puget Sound to San Pedro, at \$4.75; schooner R. W. Bartlett, lumber from Puget Sound to San Francisco, at \$4.25, with the option of San Pedro at \$4.75.

The E. K. Wood is due at Gray's Harbor from San Pedro. The C. S. Holmes is due at Hilo. The R. W. Bartlett left here yesterday for the Sound and the Shna Yak is here in port.

The new British steamer Robert Dollar arrived yesterday from Glasgow with general cargo for Henry Lund & Co. After discharging she will proceed to the Sound to load lumber for China in the Robert Dollar line.

The Kosmos liner Acilia arrived from Hamburg and the liner Statist of the same company sailed for Hamburg with wheat and general cargo.

FIFTY-FIVE DEAD.

Austin, Pa., Oct. 7.—Frederick Hamlin, superintendent of the Bayless Pulp and Paper Company, owners of the dam which broke last Saturday at the expense of many lives and the destruction of a village, refused to testify, upon the advice of counsel, at the coroner's inquest yesterday.

Further inquiry was adjourned indefinitely, and District Attorney Nelson said that he would not be back for at least two weeks because of the necessity of procuring expert testimony.

The situation has settled down to the routine of removing the debris, burying bodies recovered and distributing supplies and rehabilitating Austin. The activity was disturbed by a strike of 200 wreck laborers at Costelloe because of long hours. They were at once paid off and ordered to depart.

Three bodies and the charred bones of two others were recovered yesterday. This makes the total list of dead 55.

SUSPENSION ORDER FAILS OF APPROVAL

Mayor Morley is Again Defeated by the Aldermen and the City Engineer

(From Saturday's Daily.)

Mayor Morley put another ace on the aldermanic table last night in regard to the city engineering and had it promptly trumped. He wanted to suspend Mr. Smith from office, but the aldermen, which came in the form of a communication, and calmly "received" and filed the statement.

In temper and tone the letter was all in all a masterpiece of the only motive which prompted him was the sense of duty which he owed to the citizens. "I have been abused as no other mayor of the city ever was before and I have stood for more than one year in the hot seat before you but I will say that I have never sat in judgment on any alderman or any city official, nor have I ever expressed any enmity toward those who have opposed me. To the investigation committee I have said back its finding is like asking a jury to take back its verdict. That commission was appointed to prosecute an inquiry and

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expeditions may be possible, under a thorough systematization and organization of work and forces.

"Failing some arrangement of this nature being arrived at immediately, it would be necessary to take such further action as conditions may warrant."

In conclusion, permit me to suggest that the board of aldermen being responsible for the continuation of a state of affairs left over by a former council, which should have been dealt promptly with, the responsibility for the present and ready solution rests with you gentlemen of the council.

I feel sure that your true sense of duty to the city will, on calm deliberation, outweigh all personal considerations and motives in dealing with this, the most important phase of civic administration, both from the essential feasibility and rapidity of development which was shown by a tax saving standpoint."

The aldermen listened silently to the above indictment of themselves and the city engineer and when it was all over Alderman Moresby got in the first with a "wailing" cry. "So this is another thrust from the distance."

As Mr. Smith was seen to rise from his place, however, the aldermen conceded him the floor in order that he might reply to the allegations of the Mayor. In reference to the mention of the subject was a threat, however, to have the point carried by some other means.

Again the session was treated to the sight of Engineer Smith standing on his hind legs and exchanging words with his worship, and although the rules of the game bar decisions being given it was very obvious that the aldermen thought their champion had won again. The session throughout was very disagreeable, scenes were always of the aspic, and angry words and vulgar epithets dominated the verbal exchanges.

The mayor's statement follows:

"Gentlemen: As the result of due deliberation upon the peculiar position in which the attitude of the council, in regard to the control of the engineer's department, places the city, I feel it my bounden duty, in the public interest, to exercise the power entrusted to me by suspending the city engineer, Mr. Smith, from his position as city engineer."

"Before taking that drastic step, however, and in view of the amount of valuable time and trouble and consequent expense to the city with which that gentleman point blank declined the office, saying he didn't want it. His worship then turned to Ald. H. M. Fullerton and again he met with a pointed refusal. At that moment it seemed as if he would be called out of the session and he gazed around the board of unfriendly faces with an expression rather the reverse of content.

And then Ald. W. F. Fullerton, apparently taking the place of the chief, volunteered to sit in the chair so that he might reply to the engineer. In doing so, however, he made it clear to all that he would see that the engineer's position was not a play.

Resuming his evidence Mr. Smith stated that at the conference already referred to the mayor had said he was quite right in fighting for himself, and that he would not be in the city with that gentleman point blank declined the office, saying he didn't want it. His worship then turned to Ald. H. M. Fullerton and again he met with a pointed refusal. At that moment it seemed as if he would be called out of the session and he gazed around the board of unfriendly faces with an expression rather the reverse of content.

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of the day anyhow. Personally he thought the engineer had was one of the best in Canada. At first, he admitted, he was prejudiced against him but his experiences with him during his term of office had caused him to change his opinion. Ald. Langley was also in favor of an investigation that the mayor would have none of it. He declared that there was no use of holding an investigation when the council had made up its mind before hand that the city engineer was in the right. More than that they could not afford to tie up the work of the city in order to hold an abortive investigation.

Ald. Moresby wanted fair play for the engineer and the only way to get it was by holding an investigation. The mayor could suspend him but the council could reinstate him. His worship thought they were prejudiced but it was a fact that the councils with which the gentleman was connected were similarly prejudiced. He summed up the Mayor's tactics as "vulgar appeals to the gallery which he always indulged in as election time drew near."

Finally a conclusion was reached by Ald. W. F. Fullerton moving that the Mayor's communication be received and filed. The "house" appeared to be in favor of the motion, but in the echo, and that course was followed without further wrangling or loss of time.

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COURT SETS ASIDE JAMES BOYD'S WILL

Victoria Estate Valued at \$40,000 Goes to Daughter and Other Relatives

(From Saturday's Daily.)

The contest for possession of the estate left by James Boyd, for many years a resident of Victoria, who died at an advanced age shortly after his wife's death, was decided yesterday by the court. The will, which left his estate to Mrs. Mary Cook, has been decided by judgment handed down by Mr. Justice Clement yesterday in favor of the deceased's daughter, Mrs. Sarah Ryan, and his widow, Mrs. Mary Cook. The will was brought by the plaintiff to prove the will.

The estate consists of real property in Victoria valued at the time the will was opened after the testator's demise at \$40,000. The decedent had increased in value considerably during the time it has been held by the executors pending the settlement of the action. The estate will now go to Mrs. Ryan and other relatives of the deceased.

The will was contested on the ground that the testator was not mentally capable of understanding what he was doing when he made the will, and evidence was given to show that his agents had sent him cheques for money which had never been cashed. His agent's evidence on the point was that Boyd seemed not to be aware of their value. Mr. Justice Clement held that Boyd had lost grasp of his business affairs.

The action was brought formally by the executor, James Forman, to prove the will and the defendant was Mrs. Ryan and others. Mr. Justice Clement committed his judgment on the fact that the principal legatee was not a party to the cause. That matter, however, was remedied when the trial commenced. Mrs. Cook supporting the will and the defendants denying its validity.

In the will which has now been set aside the testator left his daughter, Mrs. Ryan, who was successful in opposing probate, \$10,000. There were \$10,000 in cash and the balance of the estate went to Mrs. Cook. In his judgment Mr. Justice Clement says:

"As to the charge of undue influence: Boyd had been in possession of his mental faculties to the extent necessary to the valid execution of a will. I should say that the charge should clearly fall; but I cannot but think that in the end the old man became so weak that he was unable to resist the influence of others."

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NO CIVIC OWNERSHIP.

Winnipeg People Do Not Want to Own Street Railway.

Winnipeg, Oct. 7.—The city council after protracted secret sessions last night killed the street railway deal which has been before them for the past five months. Mayor Evans announced to the press at the close that the negotiations are off, and he has small hopes of there being any renewal. "For the past few weeks it has become plainly evident that the opposition of the citizens generally to the deal, as presented by Sir William Mackenzie, was too strong. The mayor has been sponsor for the company, and issued lengthy statements daily all tending to show advantages to the city in taking over the railway and power plant at Sir William's figure, but to no purpose as far as the citizens' approval went."

Sir William wanted \$27,000,000, but the city power plant started running this week, and as the company's street railway franchise has only 12 years to run, the citizens decided to wait until Sir William came down in his price. The company's profits have all been bulked in the public announcements, but it is well known that the profits were largely from the lighting. With the city's plant to come into use, one-third reduction in present prices already made, the profits of the company will decline.

Sir William wished to be paid on a basis of 250 shares quoted on the stock exchanges at 238.

WORRY KILLED HIM.

Seattle, Oct. 7.—Frederick E. Swanson, a prominent real estate and financial broker, was found dead in a room in a hotel late yesterday. Swanson was a graduate of Annapolis with the class of 1887 and served under Admiral Dewey in the Spanish-American war.

Mr. Swanson was first missed the night before. He dined down early in the evening and then telephoned his wife, a daughter of former Governor Eugene Semple, of Washington, that he would be home immediately. He failed to return, and a police alarm was sent out for him. Friends and the police searched diligently, but it was not until yesterday that his body was found. Worry over business affairs is believed to be the cause of his suicide.

Mr. Swanson was 44 years old. He was born at Red Wing, Minn. He had lived at Seattle the last 20 years, leaving his business in 1888 to re-enter the navy, from which he had resigned, to serve during the Spanish-American war. Besides his wife, Mrs. Swanson, leaves three little daughters.

ST. PETER'S INDIANS.

Winnipeg, Oct. 7.—The seasons of the St. Peter's Indian reservation commission were resumed yesterday, when Indian Agent Lewis, who had previously refused to answer certain questions, declared his readiness to comply with requests for information. Mr. Lewis told who were resident and who were non-resident members of the St. Peter's band. It appeared that the land titles owned by the Indians, and the fact that the Indians had never been cashed. His agent's evidence on the point was that Boyd seemed not to be aware of their value. Mr. Justice Clement held that Boyd had lost grasp of his business affairs.

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