

whether he would put in a plea of justification, and as the evidence proposed to be taken under the commission was only as to that plea which had just been entered, the application could not have been made before.

*Chas. Wilson, Q.C., and R. Cassidy, for Crown. A. Martin, for defendant.*

Walkem, J.]

[June 18.

KLONDIKE RESEARCH SYNDICATE v. CONRADI WATERHOUSE.

*Injunction—Specific performance.*

The defendant company on 11th of March last contracted to convey the stern wheel steamer of the plaintiff syndicate from England to St. Michaels, Alaska, on the "S. S. Garonne." The plaintiffs, alleging that the owners were in treaty for sale of the "Garonne" to the U. S. Government, applied ex parte for an injunction to restrain the defendant company from transferring the steamer "Garonne" to any person previous to her voyage to St. Michaels. It appeared from the evidence that the stern wheel steamer then swung aboard the "Garonne" could not be trans-shipped, as there was no vessel available large enough to carry it; and the plaintiffs relied on it for their transport up the Yukon River. Injunction granted, restraining defendants from causing or permitting anything to be done in breach of the contract, and order made that the "Garonne" be restrained from clearing for any port outside British Columbia except St. Michaels.

*E. V. Bodwell, for plaintiffs.*

McCull, J.]

CAMERON v. NELSON.

[July 5.

*Rev. Stats. B.C., 1897, c. 1, s. 70, sub-s. 20, and c. 144, 89—Expiry of prescribed time—Non-judicial day.*

The Fire Limits by-law of the City of Nelson was published in the B. C. Gazette, on 22nd July, 1897. Sec. 89 of c. 144, R.S. B.C., 1897, provides that "No application to quash a by-law, order or resolution, in whole or in part, shall be entertained unless the application is made within one month after the promulgation of the by-law, or the passing of the order, or resolution, except in the case of a by-law requiring the assent of the electors or ratepayers, when the by-law has not been submitted to or has not received the assent of the electors. The last day of the month, August 22, fell on Sunday, and on August 23, the plaintiff, who was an elector of the city of Nelson, wishing to quash the by-law, applied to and obtained from the Supreme Court an order nisi, and on the return of the motion it was contended on behalf of the defendant that on the expiration of the one month the elector's statutory right was at an end. The plaintiff relied on R.S. B.C. 1897, c. 1, s. 10, sub-s. 20, which is as follows: "If the time limited by an Act for any proceeding or for the doing of anything under its provisions expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on the day next following, which is not a holiday."

*Held*, that the application was in time, and that c. 1, s. 10, sub-s. 20 is not confined to matters of procedure only.

*Dechene v. Montreal*, (1894), A.C. 640, considered.

*E. V. Bodwell, for plaintiff. A. S. Potts, for defendant.*