

TAXES LEGALLY DUE TO THE CITY

VIEW OF SOLICITOR ON HOUSES BURNED

Manager Van Sant Courteously Agrees to Abate Disturbances From Engines.

Monday evening's sitting of the council was continued largely to routine work. Agnes Deans Cameron wrote calling attention to certain facts connected with the proposed extension of Carr street and claiming that the by-law was already quashed.

The Princess avenue fire was discussed as to what could be done towards aiding those who lost property by exempting them from the payment of at least a portion of their taxes.

In the absence of Mayor Barnard Ald. Graham was elected to preside. Major Maude, secretary to Lord Minto, wrote conveying thanks for the reception accorded their Excellencies on their visit to Victoria.

The Gutta Percha Manufacturing Company, Toronto, forwarded contracts for Paragon hose. These were received and filed.

C. A. Holland, agent for Thos. Nicholson, requested that buildings projecting on the street near his property on the corner of Johnson and Douglas streets should be required to be moved back.

Higgins & Elliott wrote asking that compensation be made to their client for the loss of a building on Princess avenue, and citing various clauses of the statutes. It was as follows:

Section 230 of the same act provides as follows: "230. Every council shall make to the owners or occupiers of, or other persons interested in, real property entered upon the list of rates by the corporation in the exercise of any of its powers, due compensation for any damages (including the cost of fencing when required) necessarily resulting from the exercise of such powers beyond any advantage which the claimant may derive from the contemplated work."

Section 242 is as follows: "242. It shall be lawful for the council of any municipality, by resolution, to appropriate so much of the general funds of the said municipality as may be necessary to carry out the provisions of these sections, and to pay any compensation which any municipality may be required to pay to any person claiming compensation under the provisions of this and the three preceding sections of this act."

Section 243 is as follows: "243. Whenever any person shall be entitled to any compensation as aforesaid, it shall be the duty of the council to tender to such person, or his agent, such sum of money as the conditions steps in this piece of the Carnegie library that he be allowed to put these in in two lengths rather than one of 16 feet in length. He also asked to alter the steps from sandstone to granite."

Section 244 is as follows: "244. It shall be lawful for the council of any municipality, by resolution, to appropriate so much of the general funds of the said municipality as may be necessary to carry out the provisions of these sections, and to pay any compensation which any municipality may be required to pay to any person claiming compensation under the provisions of this and the three preceding sections of this act."

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Section 246 is as follows: "246. It shall be lawful for the council of any municipality, by resolution, to appropriate so much of the general funds of the said municipality as may be necessary to carry out the provisions of these sections, and to pay any compensation which any municipality may be required to pay to any person claiming compensation under the provisions of this and the three preceding sections of this act."

by reason of their not having passed a by-law under 55 Vict., C. 33, actually vesting the bridge in them." It being therefore clear that by express statutory provisions which cannot either be distinguished or held non-applicable an obligation is laid upon the corporation to make compensation for the loss in respect whereof we apply, we would respectfully ask your honorable body to reconsider the matter and to award and pay to our client the compensation by law prescribed. We might also presume so far as to point out that an amicable settlement of the matter will save the costs of an arbitration or suit, which must of necessity reach a substantial figure.

HIGGINS & ELLIOTT.

Ald. Fell said this was apparently a very clever attempt to call forth the line of defence which the corporation would take in this case. The letter was referred to the city solicitor for report.

Manager Van Sant, of the Victoria Terminal railway, was respecting the complaint from attendants at St. John's church on account of the stunning of cars. He explained that on the evening in question there had been considerable noise in consequence of the work required to be done on that occasion. He regretted this and stated that although it involved considerable expense to the company the annoyance would be overcome in future by keeping the engines in the yard until after church was dismissed.

The letter was referred to the city solicitor for report. A communication was read from Agnes Deans Cameron as follows: Gentlemen—In connection with the proposed extension of Carr street, permit me respectfully to lay before your honorable body the following facts:

Not being sure of the date of the last day when a petition against the carrying out of the work could be legally lodged with the council, I applied to the city assessor, to whom the council's advertisement refers ratemakers for information on the proposed work, for that advice; and was advised to lodge the petition on Saturday, the 10th instant, was the last day.

Acting on that official advice, on behalf of the property owners opposed to the measure, I, at 12 noon on Saturday, the 10th instant the last hour when the city hall was open, deposited with the city clerk a petition against the carrying out of the work, and that petition was officially stamped by him.

That petition was signed by a majority of the property owners concerned as they appear on the assessor's official list. And should the property represented by these names be shown by the assessor to be more than half of the whole property concerned, I most respectfully submit that the by-law for the proposed extension is already, by virtue of that petition (under the law governing local improvements), legally quashed.

I am aware that an application has been made to the council to remove certain names from the petition legally lodged with the city clerk.

In this connection I would respectfully state that I am advised that when a document or property interest of a party or parties, is signed in good faith by any person of legal age (being sane), the signature of such person, there being no coercion, fraud or intimidation, is good in law and must hold.

If such were not the case, it is readily seen that in the settling of cases of this kind (unavoidable) the justice would be done the petitioning parties (with whom the burden of proof rests); in the affixing of signatures it could never be known when a fraud had been perpetrated.

AGNES DEANS CAMERON. The communication was laid on the table until the report from the city assessor should be presented. Noah Shakespeare wrote on behalf of the petitioners for a permanent sidewalk on Hillside avenue. He wished to know when that work might be expected to be begun.

THEY VIOLATED THE GAME LAWS

HUNTERS CONVICTED IN THE POLICE COURT

Fines Imposed on Them for Having Grouse in Possession Before Season Began.

In the police court on Tuesday Edwin Wall, Richard John, Jas. John and Richard John, Jr., were convicted of having grouse in their possession before the season for hunting began, and fined. The first three are required to contribute \$70 each, and Richard John, Jr., who is 17 years of age, is fined only \$40.

Deputy Attorney-General McLean said the other informants for having other classes of game in their possession was school board constituted a criminal offence.

Harold Robertson, representing the defendants, in his argument held that if the proceedings had been taken under the criminal code a case might have been established without proving that the birds were there with the consent of all the parties concerned. There was no proof that on August 10th he shipped the grouse to the defendants with the consent of all, and therefore under the Game Act no case had been established.

Opening cases, he contended that where there was no direct evidence against a person that there could not be a conviction, even though the circumstantial evidence was very direct. The British statute in this respect was in favor of the prisoners on the ground that the Game Act was ultra vires of the province. In support of this he quoted the Dominion statute which held that under section 91 the act was ultra vires.

The criminal law in its widest sense was reserved, he held, to the Dominion parliament. The statute really constituted the offence as a criminal one. A police officer was not authorized to arrest a person under it without a warrant. It was provided also that there could be a fine and imprisonment for violation of the act. He cited many precedents in support of his contention that even the violation of a by-law of a school board constituted a criminal offence.

The Game Act provided for a fine or imprisonment, or both, clearly constituting a criminal offence. Wherever fine, penalty or imprisonment followed as a punishment, a criminal offence was constituted. He called attention to the fact that sub-section 15 of section 92 gave the province authority to impose fines, penalty or imprisonment, and enforce the same. He contended that Mr. Robertson's argument did away with all authority for enforcing provincial law in this case.

Robertson held that sub-section 15 was nullified in so far as this statute was concerned, in view of the fact that this was a provincial law, and therefore he was held to be conclusively dealt with by the Dominion. The province could pass laws forbidding certain things, but it could not enforce them. It was clear that all the men were guilty.

Coming to the constitutional side of the question Mr. McLean said that the constitution was built up on such a narrow foundation. The wide sense of crime was one that violated a moral obligation which was further carried to legislation. In a narrow sense crime was constituted in consequence of the violation of many regulations.

The Law Lords were introducing such a revolutionary decision as Mr. Robertson represented them as doing in the Sunday observance case they would have referred to some of the decisions which went before it and contradicted this stand. He cited appeals where the right of a province to enforce imprisonment, even with hard labor.

The logical result of Mr. Robertson's argument was that the province could pass laws but could not enforce them. The police magistrate did not think the Privy Council intended to take away the power of the province to legislate. The evidence was absolutely clear. The facts were not disputed.

Under the criminal code all were parties to the offence, as they had a common intention in obtaining the game, and worked together in getting away with the game. They were all guilty of the offence. He felt that a substantial fine should be imposed, because one of the parties had stated that he intended to shoot the birds and he had done so. That statement was made by Jas. John. Others of the party had said to witnesses that it was none of their business whether the birds were shot or not. That they intended to violate the law. Richard John had taken his son into the crime also.

THE ACCUSED ARE NOW AT LIBERTY

SCHMIDT AND AYERS ACQUITTED OF CHARGE

Of Stealing Goods From the Imperial Hotel—Defendants Explain the Matter.

J. J. Schmidt, formerly proprietor of the Imperial hotel, and Warren Ayres, who was employed by him in the establishment, are free men again. In the police court on Wednesday Magistrate Hall dismissed the charge of stealing goods preferred against them by D. Boscowitz, after having heard the ins and outs of a case which has consumed a goodly number of days in its ventilation.

The arrest of the accused created not a little sensation because of the circumstances alleged. It was at first asserted that they had appropriated furniture and household effects generally, valued at four thousand dollars. How the prosecution could reach such an extraordinary total passes understanding in view of subsequent developments, and at the time it was thought that Messrs. Schmidt and Ayres would put up a stiff fight against extradition. But to the surprise of everybody they came over to "face the music" and they have won out.

When the proceedings were started there were two defendants. One was Messrs. Powell and Courtney, who appeared for the accused, applied a paring down process. With several fell swoops they reduced the quantity of the goods charged to have been stolen until all that was left of the inventory contained in the information was a broken chair and two torn sheets, for which the defendants were able to account to the satisfaction of the magistrate. Tuesday afternoon Warren Ayres was put on the stand for the defence to clear up a few things.

Witness was surprised to hear Schmidt say that the napkins belonged to the Imperial hotel, as he thought they belonged to his place. There were two bed room chairs like one of the two found in Tacoma. Witness intended to pack up the two belonging to Schmidt, but he made a mistake and took some other kinds, only one of which was Schmidt's. When the goods were cleared in Tacoma he learned of his mistake.

Witness said that he thought it must be Schmidt's goods, but he did not intend to steal the hotel chair. The goods were shipped in the daytime between one and four o'clock in the afternoon. As to an easy chair believed to be missing, witness said he stated to Detective Perdue that he thought it must be Schmidt's goods, but he did not intend to steal the hotel chair. The goods were shipped in the daytime between one and four o'clock in the afternoon.

Under cross-examination by Frank Higgins, the witness said he had shipped Mr. Schmidt's goods to Victoria from Tacoma, when the latter leased the Imperial hotel. Some of these were subsequently removed to the Turkish baths, where there were six furnished rooms. When witness stopped working there on January 13th. With the exception of a few wooden chairs the furniture was destroyed by the Driford fire. He did not deny that the chair shipped to Schmidt from here by mistake might belong to the Imperial hotel. Not being Mr. Boscowitz's tenant he did not notify that gentleman that he was going away. Mr. Schmidt had intended to return to Victoria and resume the operation of the hotel, and expected witness would have paid the rent, but the latter hadn't the money. Witness denied that he offered to settle the matter in Tacoma.

Just as J. J. Schmidt was called, Magistrate Hall remarked that in his opinion the case had gone far enough to justify a dismissal on Mr. Powell's motion unless Mr. Higgins had some strong reasons to the contrary. Mr. Higgins said he desired to produce rebuttal evidence. The magistrate was willing to grant a remand for this purpose, but decided to release the accused on their own recognizances. There was not sufficient evidence to justify their detention in the police lock-up another night.

An adjournment was thereupon granted until Wednesday, Wednesday when the case was called Mr. Higgins said he was content to leave the matter in his Worship's hands. He had intended calling rebuttal evidence, but this was not available. The prosecution case was that a chair was found in the possession of the accused, who did not claim it was theirs, and must be taken to be the property of Mr. Boscowitz. As to the tablecloths and napkins they were not included in the information, and he had no evidence to show that they were the property of Mr. Ayres. He felt certain, however, that in view of what had been brought out there was justification to compel the accused to give up the property. Magistrate Hall commented briefly on

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LAND REGISTRY ACT. In the Matter of Lot 1615, Victoria City, and in the Matter of an Application on Behalf of Charles William Hunter Thomson for an Indefeasible Title to Same. Notice is hereby given that it is my intention to issue a Certificate of Indefeasible Title to the above land to Charles William Hunter Thomson on the 23rd day of September, 1904, unless in the meantime a valid objection thereto be made to me in writing by a person claiming an estate or interest therein, or if any part thereof. S. Y. WOOTTON, Registrar-General. Land Registry Office, Victoria, B. C., 21st June, 1904.

WANTED—Gentlemen or ladies—\$800 per year and expenses; permanent position; experience unnecessary. Address M. A. O'Keefe, district manager, 51 Richmond street W., Toronto.

WANTED—We have colonial inquiries for Vancouver Island farm lands. If your property is for sale write us at once. Full particulars, and we will sell it for you if it can be sold. Heisterman & Co., Victoria, B. C.

STRENGTHENING BESIĆC OYAMA REPORTS HAVE SENT Japanese Dispersed After Fight Near Liao Yang

St. Petersburg, Sept. 22.—Operations against the Japanese are rapidly developing. The Japanese are beginning to capture Kaouting, and the road to Fushan is offering a stubborn resistance. The Japanese are offering a stubborn resistance to capture Kaouting, and the road to Fushan is offering a stubborn resistance. The Japanese are offering a stubborn resistance to capture Kaouting, and the road to Fushan is offering a stubborn resistance.

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