[From THE DAILY COLONIST, Oct. 6.]

THAT PILE BRIDGE.

Mr. Justice Drake Gives a Decision in Favor of the Consolidated Railway.

An Injunction Granted Until Provision Is Made for the Tramway Traffic.

The city has been prohibited by the courts from proceeding with the construction of the pile bridge across Victoria Arm until sufficient provision has been made for tramway traffic over the temporary structure. This is the result of the judgment given yesterday by Mr. Justice Drake on the motion argued before him last week by the Consolidated railway and the City. Naturally, the city do not relish the situation, and the Mayor remarked yesterday afternoon that the judgment would very likely be appealed from. The full text of the judgment is as follows:

"This is a motion by the plaintiff for an injunction to restrain the defendants from proceeding with the erection of a wooden pile bridge over Victoria Arm at Point Ellice, on the ground that the proposed bridge was insufficient for the purposes of tramway traffic, and by consent the motion was turned into a motion for judgment.

"From the evidence it appears that the Point Ellice bridge collapsed on the 26th May, and instead of making any attempt to repair it the corporation commenced the erection of a pile bridge alongside the existing delapidated structure. The Dominion government interfered and an injunction was obtained to restrain the further prosecution of the proposed work, which injunction was suspended in consequence of an agreement which the corporation had entered into with the Attorney-General of Canada. The defendants thus being in a position to prosecute the work of building the bridge the plaintiffs commenced these proceedings.

"The present plaintiffs are admittedly the legal assignees of the National Electric Tramway and Lighting Co., Limited Liability, subsequently known as the Victoria Electric Railway & Lighting Co., Ltd.; and by act 57 Victoria, cap. 63, the previous existing acts and franchises were consolidated and amended, and by section 1 an agreement made between the corporation of Victoria and certain parties who afterwards became a corporation under the name of the National Electric Tramway and Lighting Co., Limited Liability, was ratified and confirmed, and the company and corporation were empowered to do whatever was necessary to give effect to the substance and intention of the provisions of the agreement.

"The plaintiffs, by section 12 of the act, had power to construct, maintain and operate a street railway upon or along certain streets within the city of Victoria subject to the approval and supervision of the city engineer as to the location of poles, tracks and other works of the company, or upon the lands highways and bridges lying between the city of Victoria and town of Esquimalt.

"This is the statutory authority which enables the company to lay their tracks on or over any street maintained in the schedule to the agreement or over any bridge. The duty of the corporation is limited to supervising and controlling the location of poles, tracks and other works, but they cannot prevent the company from laying tracks on any such street, but subject as mentioned in section 1 of the agreement.

"By section 33 of the agreement, the plaintiffs may lay, construct and operate a single line over and along any bridge in the said city, upon laying a new flooring over the whole of the bridge so crossed.

"The defendants contend first that at the time the agreement was entered into, viz., 20th November, 1888, the limits of the city were much smaller than they are now, and that the agreement must be read as only applying to the restricted area; in which case Point Ellice bridge would not be within the terms of the agreement.

"The terms of the agreement read in the light of clause 1 of the act appear to me to be sufficiently wide to cover any bridge which might thereafter come under the control of the city; there are are no words limiting its operation to then existing bridges. New bridges might be constructed or rebuilt within the old limits of the city, and it is hardly arguable that in such cases the agreement would not be operative; but if the slightest doubt existed on this point under the agreement, section 12 of the act gives the necessary power.

"The other point taken by the defendants is that the corporation in building a bridge are not bound to consider the tramway requirements and may construct a bridge too narrow or too light for the purposes of the company. The plaintiffs contend that under the act and agreement the company have a right to lay their track across any bridge which is constructed for vehicular traffic and which is in the line of their then existing track and the corporation cannot avoid this obligation by erecting a bridge unfitted to carry the weight of the tram cars. It is true that no action would lie at the suit of the plaintiffs against the corporation for non-repair of the broken bridge, Russell v. Men of Devon, 2 T.R. 667, Gibson v. Mayor of Preston, L.R. 5 Q.B. 218, but it is quite within the bounds of possibility that other proceedings might be taken to compel the corporation to fulfill their duties as trustees of the ratepayers in repairing or building this bridge, the want of which is most prejudicial to the community at large.

"The question I have to decide is not one relating to non-repair of the bridge or as to the statutory liability of the corporation in respect thereof as part of a public highway. The cases under this head are collected in the municipal council of Sydney v. Bourke 1895, App. Cas. 433.

"But as the corporation are now after a lamentable loss of time preparing to erect a substitute for the broken bridge the plaintiffs say it ought to be of sufficient capacity for their requirements, which in one sense are the requirements of the public.

"The evidence clearly shows that the bridge now partially erected will not be of sufficient strength to take the tram cars, and so much is admitted by the corporation engineer.

"Are the plaintiffs entitled under the agreement to utilize any bridge erected by the corporation in lieu of an existing bridge for the purpose of their tram line? In my opinion the statute and agreement give them that right. Of course such a right must be limited to bridges built for vehicular traffic and does not apply to foot bridges, as the right must be read in a reasonable way. Whether or not the agreement sufficiently protects the interests of the city is not now to be considered.

"The plaintiffs in furtherance of the agreement have expended a large sum of money on the construction of their works, and by the intended new bridge which is nearly completed a large part of their line will be completely cut off from their power house and works and thus practically rendered useless.

"I therefore grant the injunction asked for and until such time as sufficient provision is made for the tramway traffic.

"(Sd.) M. TYRWHITT DRAKE, J."

THE CITY

THE children of Christ Church cathedral had their harvest home on Sunday last, special and appropriate services being held at 3 o'clock, and the effective decorations of last Thursday remaining in place to excite many expressions of appreciation.

THE powder magazine is at last to be removed from Beacon Hill Park, and in a very few days the thirteen tons of black powder belonging to the Dominion government stored in the magazine will be removed to Nanaimo, where arrangements have been made to heve it placed in a proper storehouse. As soon as this is done the old brick building that now disfigures one of the most charming portions of the park will be torn down.

NEWS has just been received in Victoria of the death at Londonderry, Ireland, of Mr. John Work, a former much esteemed resident of this city, at the age of seventy-two. The deceased was born close to Londonderry, but emigrated in his youth to British Columbia, where for many years he held a position of trust and responsibility in the service of the Hudson's Bay Company. Since the death of his wife, about eighteen months ago, as the result of a car accident, his health failed rapidly, and he was for some time prior to his demise very feeble, although confined to his bed for but one week.

SUNDAY afternoon's well dressed crowd at Beacon Hill took the park frequenter back in thought to three or four years ago, when all the city met there when pleasant weather permitted. This summer the band concerts at Oak Bay have caused the park to be in a measure deserted; now with the transfer of the band to the city's pleasure garden its manifold beauties are more than ever appreciated. Sunday's music-loving strollers included many strangers, who were not slow to express surprise that the work of park improvement so well begun a few years ago had not since been pushed to some definite conclusion. The result would undoubtedly be one of the finest natural parks in America.

RUFUS A. ROSCOE died yesterday at his residence, Pandora street, after an illness of nearly two months. The deceased was a native of Nova Scotia but has lived for a long time in this province. For a number of years he was engaged in railway construction work in Washington, and also took part in the building of the Victoria & Sidney railway. For several years he had been manager of the Confederation Canning Co., Naas river, and two months ago he came down from the North broken in health and from then gradually sank after great suffering. He was a man of sterling integrity and upright character and his loss will be regretted by many who knew him. He leaves a wife as well as two children, a son and daughter.

SIX years ago last Sunday witnessed the death of courageous Mrs. William Booth, the "mother" of the Salvation Army and unquestionably one of the great powers for good of her sex and her time. The anniversary was marked with special services wherever the Army is established—and where has not its banner been unfurled?—Adjutant and Mrs. Clark and Captain Stayer conducting the exercises at the Victoria barracks and paying particular reference in the afternoon to Mrs. Booth's early training for her important lifework, the scope of her mission and the lasting good accomplished. Last night's services at the barracks were also in connection with the anniversary, being in the form of a service of song interspersed with readings aptly illustrating the life of Mrs. Booth.

A VERY pleasant entertainment was held at Colwood on Friday evening in aid of the Presbyterian church. Mr. Sam Reid gave the opening address and the following programme was rendered: Recitation, A. Semple; instrumental music, Miss Blackford; song, "Rock of Ages," Misses Violet Ross, Daisy Wales, Evelyn Rant and Louisa Walton; reading, Miss King; club swinging, Miss Viola Semple; recitation, S. Reid; reading, Capt. McCallum; recitation, Miss Daisy Wales, instrumental solo, Miss Blatchford; recitation, Alex. Semple; song, Mr. Trescott; recitation, Miss Evelyn Rant; duet, Miss King and Mrs. Peatt; recitation, Mr. James; song, Mr. Parkes. There was quite a large attendance from the district and from the city and during the evening refreshments were served by the ladies of the church.

THE fall assizes this year, with one or two exceptions, show remarkably light lists, and at one place, Lytton, where the assize date is October 9, there are as yet no cases on the docket. The other assizes yet to be held are: October 12, Vernon—Lucy, false pretences; Lind, Keightley and Humphrey, forgery. November 3, Westminster—Ah Fook and seven other Chinamen, housebreaking. November 9, Vancouver—Leach, theft; McLeod, rape; Sheehan, murder; Hang Hing, selling lottery tickets; McNulty, Stone and Piper, highway robbery; Mark, uttering forged cannery tickets; and Chartres, arson. November 17, Victoria—Garrow, abortion; McChief, theft; and Grimm, illegal voting. November 24, Nanaimo—Mr. Lewis and Dr. George (Indians), attending an unlawful dance; Barber, entering a dwelling house; and Hodgson, murder. It will be seen that unless some extraordinary increase in crime occurs all of a sudden, Westminster and Victoria will have very few cases to present to the grand jury this fall, a circumstance that may be viewed with satisfaction by the community.

THERE will be a meeting of ladies interested in the work of the Maternity Home at Christ Church Cathedral school room (kindly lent by Canon Beanlands), to-morrow, at 11 a.m.

A SPECIAL meeting of the "King's Daughters" will be held at the Alexandra club room, Government street, on Thursday afternoon, at three o'clock. Mrs. Maitland-Dougall will preside, and an address will be given by the Bishop of Columbia. All members are requested to make an effort to be present and to invite their friends to attend.

WHILE a little bunch of five cattle belonging to Messrs. Pemberton were being driven down to the wharf on Sunday to be shipped over to Westminster for exhibition at the fair, a wayward cow strayed from her companions and fell into the sewer excavation on Yates street just above Vancouver street. The passers-by came to the rescue, the corporation box was opened, the tackle rigged up and the animal was rescued. A little later in the day a horse fell into the same hole, but was got out without much damage.

SPECIAL services in connection with the anniversary of St. Paul's Presbyterian church were held on Sunday last by Rev. D. MacRae, the pastor, while last evening the anniversary social attracted another large attendance. Rev. Mr. MacRae presided and the programme—very acceptably presented—was as follows: Anthem, choir of St. Paul's church; address, Rev. J. P. Hicks; solo, Miss Gracie King; address, Mr. L. Tait; solo, Mr. J. G. Brown; address, Rev. J. C. Foster; solo, Mr. G. Watson; address, Rev. P. C. L. Harris; solo, Miss Hutcheson; address, Rev. P. H. McEwen; duet, Messrs. Brown and Harris; address, Rev. W. L. Clay; solo, Miss Flora Fraser; and solo, Rev. P. C. L. Harris.

THERE is trouble among the Chinese of Vancouver over fourteen silver medals that Li Hung Chang is said to have left behind him to be distributed among his countrymen in commemoration of his visit. The Chinese claim that the medals have not been distributed according to the desire of the Viceroy, and in consequence the disappointed merchants who had hoped to adorn their breasts with the Viceroy's gifts decline to pay for their share of the reception unless the offender treats them to wine all round and pays $60 as a peace offering. The Victoria Chinese were much more amicable in their division of the honors. Li Hung Chang handed over to the Benevolent Association four medals, two going to the officers of the society and the other two being raffled for. The medals raffled brought in nearly a hundred dollars each, the successful men being quite the envy of their less fortunate companions.

THE congregation of the Centennial Methodist church on Sunday last celebrated the fifth anniversary of the completion and occupancy of their handsome edifice, the morning sermon being by Rev. Solomon Cleaver, of the Metropolitan church, and the evening discourse by Rev. W. Leslie Clay of St. Andrew's, Presbyterian. The former took for his subject the words of Scripture, "Not by might nor by power, but by My spirit, saith the Lord," preaching a sermon therefrom that was a masterpiece of eloquence, forceful and helpful to all who listened to it. Rev. Mr. Clay's theme was, "No man cometh unto the Father except by Me," the mediating Christ being pictured plainly but impressively and the sermon creating a marked impression upon each one of the large congregation. Special and very attractive music was provided during the day by the choir, under the leadership of Mr. Spence, while the floral decorations of the church surpassed in beauty of design as well as in extent anything heretofore attempted by the ladies of the congregation.

THE meeting of the Natural History society last evening was well attended and the proceedings were rendered unusually interesting by a visit from Prof. D'Arcy Thompson, of Dundee, British representative on the Behring Sea commission, who has just returned from the North on his way homeward; and a polariscopic demonstration by Mr. Hastings. The former, by request of the president, gave a short address on the subject of the laws governing shell and leaf forms. He prefaced his remarks by the epigram, that in his belief one leaf was like another and that the variations in development were in accordance with well defined and invariable mathematical laws. He proceeded in most felicitous terms to elaborate his theory, which, he said, was so far an unwritten one, and with him perhaps more of a dream than a reality, and illustrated his remarks by diagrams. A similar theory had been partially developed by older scientists in regard to shells and great possibilities lay in pursuing the investigation in the lines indicated. In conclusion he expressed the pleasure it gave him to meet brother naturalists, with whom all the world was akin. The members of the society tendered him a hearty vote of thanks. Mr. Hastings, who had a miscropic polariscope and a number of crystals with him, gave a most interesting talk on the polarization of light. He referred to the discovery 250 years ago of the law governing polarized light and the separation of the longitudinal from the transverse rays by Huygens, who was the father of the optical science of to-day. Although wrong in some of his conclusions, he established a recognized law, and to his efforts the scientific world owes much of its knowledge regarding the phenomena of light, which for 200 years subsequently was all practically that was known of the subject. By request he will continue the demonstration at the next meeting. Several new members were elected.

THE WHEEL.

By the time the Westminster races arrive it looks as though the majority of the crack amateurs of the province would be out of the running. First, Barker was suspended for unbecoming conduct on the track; then Lester turned "pro"; and now Tom Spain has ridden in an unsanctioned race at the Chilliwack fair and has been laid on the shelf. At this unsanctioned meet Spain won the one and two-mile events and T. and J. Knight first and second in the quarter. The Knight brothers and Tom Kendall are also in the suspended list, which mean that Penwill and Wolff stand a first-class chance for the honors at the Westminster meet—though of course Marshall is a factor not to be overlooked.

BOARD OF ALDERMEN.

Adoption of the Proposal to Alter the Boundaries of the Three City Wards.

The Garbage Scheme Dropped—St. Charles Street Residents Refused Any Relief.

All the memb rs of the council were present at the regular weekly meeting last evening, Mayor Beaven presiding.

THE MAYOR returned for reconsideration the resolution recently passed contemplating a termination of the contract for conveying garbage out to deep water and the utilization on land of the night-soil, ashes, etc., now carried away by the contractor. His Worship read his reasons, as follows:

"The above resolution contains the following propositions: 1st. That the method in vogue for several years past for the removal of garbage from the city by placing it in a scow at the foot of Telegraph street and depositing its contents in deep water in the Straits be discontinued at once. 2nd. That a portion of the garbage be utilized on land outside the city limits. 3rd. That ashes and other refuse be deposited in the streets within the city limits.

"With regard to the first and second propositions, I consider it unwise to discontinue a system which has proved beneficial in which the public health is involved until the experiment outlined in the above resolution has been put to a practical test and found to be satisfactory to all persons interested, especially as it is proposed to utilize a portion of the garbage under a semblance of municipal authority on land beyond the jurisdiction of the council's course of action, which may tend to difficulty and provoke a conflict with the provincial board of health.

"With regard to the third proposition, it is quite within the power of the city engineer and the sanitary inspector at any time to arrange that the scavengers deposit clean ashes where filling is required in streets or vacant places within the city—but it must be remembered that there is removed from the city a large quantity of garbage and refuse which it would be impossible to dispose of in that manner, and that if the use of the scow is discontinued no provision whatever would be made for its disposal.

"I therefore recommend the council not to change the existing state of things in the manner indicated until the propositions contained in the above resolution have been tested and found satisfactory."

In the discussion which followed, Ald. Glover agreed with the Mayor, feeling that if the resolution had been fully understood by the council it would not have passed. Ald. Marchant defended the resolution, which he had moved, and spoke with enthusiasm of the financial and general economic advantages of his scheme for utilizing the refuse now going to waste. The Mayor explained that his suggestion was that the committee named under the resolution should at least make a test of the scheme before the present arrangement is abandoned. Ald. Cameron thought that the Mayor's recommendation should be adopted, and spoke in favor of the present plan as the most satisfactory yet tried, rather than the new scheme. A vote was taken on the question whether the resolution should be again adopted in its original form, and this was lost, Ald. Macmillan, Humphrey and Marchant alone voting for it. The resolution therefore fell to the ground, and Ald. Marchant announced that he would not touch it any more, "even with a long stick."

POINT ELLICE BRIDGE.

THE CLERK read the judgment delivered yesterday in the matter of the Point Ellice bridge.

ALD. MACMILLAN asked the Mayor whether the statement was not made to the Dominion government in the recent correspondence, that the bridge would be strong enough to carry a railway train. He believed this was on the authority of the engineer, and he wanted to know how in the face of this the engineer could have made an affidavit to the contrary.

THE MAYOR said the impression on his mind was that the bridge was said to be planned so that it would be "strong enough to carry a locomotive."

ALD. HUMPHREY thought the explanation was that the bridge would be strong enough to carry anything except for the truss, and he could not understand how it was that a truss should be put in that would not carry a tramcar.

The judgment was ordered to be received and filed, and the matter dropped.

ST. CHARLES STREET SEWER.

A letter from Mr. A. C. Flumerfelt in the matter of the St. Charles street sewer, asked if the persons interested in securing it would be allowed to use the present surface drain for sewerage provided they build a cesspit on the Pemberton estate, and connect the surface drain with it, the pit to be constructed to the satisfaction of the sanitary officer and frequently emptied without cost to the city. A proposition by Ald. Tiarks to refer the letter to the sewerage committee was lost on division of 3 to 6, and the letter was filed; the sanitary officer to be instructed to abate the present nuisance as ordered last week.

R. B. McMicking and J. C. Scott, residents on Kingston street, again petitioned for a sidewalk to enable them to reach the present sidewalk system at any point.

The trouble in this case is that the street committee allege that certain fences on this street encroach on the street and refuse to lay a walk until the fences are moved back. Ald. Williams stated that both the petitioners are willing to move their fences, and that there is no obstruction between their property and Menzies street. It was resolved that the sidewalk should be laid when the fences are moved.

C. T. W. Piper presented a claim for $10 for a boat said to have been taken by an employe of the corporation named Conlin and not returned. Mr. Piper having found it after losing two days in the search. Referred to the fire wardens, it being suggested that the boat was used by a fireman on duty.

The city solicitor and city engineer advised the council to notify Mr. Phillips to remove his fencing and a small building from Beacon street and St. Andrew street; and that failing to comply with this notice Mr. Phillips be summoned by the police. Adopted.

The city engineer reported on Mr. Piper's application for landing privileges for a ferry at Point Ellice. The report being declared to be too indefinite and not in accordance with the request by the street committee to the engineer, it was referred back to him for amplification.

In Chief Deasy's report for September, on fire department matters, he complained that corporation workmen use the hydrants in connection with flushing drains and leave them in an improper condition, and he asked that regulations be made to prevent these hydrants being found out of order when wanted for fire purposes. Referred to the fire wardens.

A report from the finance committee recommended an appropriation of $350 to commence boring on the site of the proposed Point Ellice bridge, for the purpose of the foundations.

ALD. WILLIAMS objected to this expenditure as unnecessary, holding that a pile foundation could be placed if necessary, without any expensive boring.

The appropriation was agreed to after further brief discussion. Another report from the same committee advised that contracts for police supplies be awarded as follows: Thomas & Grant, 17 suits for constables at $21; W. D. Kinnaird, 2 suits for sergeants at $29.50; R. Robert, 1 suit for chief, at $33; Geo. H. Maynard, boots for police, at $6.50. Agreed to.

The printing committee recommended the acceptance of Mr. Cusack's tender for printing the voters' lists at 82 cents per page. Agreed to.

The streets committee recommended that McGregor & Jeeves be notified to place a two-foot sidewalk outside their fence on Government street; also that 150 loads of broken stone be procured from the government grounds for use on Belleville street. It was explained that this stone is to be used for filling up, in place of earth, and at fifty cents a load it will be cheaper as well as being better than earth. It is to be covered with granite. The report was adopted.

NEW DIVISION OF WARDS.

ALD. MARCHANT moved the adoption of the plan submitted by the city assessor for the re-division of the city into three wards; more equal as to the number of electors and as to area than the present. Referring to an editorial in the COLONIST, he said he thought it "the height of imbecility" to suggest as in that article that the council might better give their attention to restoring communication with Victoria West and Esquimalt; to purifying the water; and to dealing with the Government street cabstand and other nuisances.

ALD. MACMILLAN spoke at some length about himself and the COLONIST and supported Ald. Marchant's proposition, though he felt it would be against his chances of election by placing his property in the Centre ward in place of in the North ward.

The resolution was carried on division of 5 to 4, as follows:

For—Ald. Glover, Marchant, Humphrey, Macmillan and Cameron—5.

Against—Ald. Williams, Wilson, Partridge and Tiarks—4.

THE WATERWORKS.

ALD. PARTRIDGE moved the resolution of which he had given notice as follows:

"That the water commissioner be requested to proceed with the following work forthwith: 1. The completion of the reservoir, the bottom as well as the slopes to be concrete, the work to be done by day labor. 2. The alterations of the line of the East Saanich road to prevent it being overflowed by the raising of the water in the lake, the work of grading, etc., to be done by day labor. 3. That Mr. J. G. Brown be engaged to superintend the work of completing the reservoir under the directions of the engineer in charge."

THE MAYOR said a rough estimate of the cost of this very necessary work places it at $10,000, and though there is $12,000 of the loan now available there may not be so much when the contractors are settled with. He thought, however, that there is money enough to proceed to raise the level of the lake and to expropriate the land required; and this is the most urgent part of the work, because the whole operation of the new filter beds depends upon the level of the lake being raised some three feet, the preparation for which must be made before the wet reason, otherwise a whole year would be lost.

The resolution was therefore altered so as to provide first of all for the work necessary to raise the water level. Mr. Brown to be engaged to supervise the work, under the direction of the engineer in charge, and authorized to hire and discharge all men employed. The portion relating to the reservoir, the Mayor said, could not be put, because the council have already decided upon a different course. Ald. Partridge refused to move the resolution if the reservoir were left out, and therefore the matter was dropped for the time being.

THE BRIDGE AGAIN.

ALD. TIARKS moved:

"That the Mayor be requested to invite the Consolidated Railway Co. to appoint an engineer to confer with the city engineer, with a view to ascertaining in what way the temporary pile bridge across Victoria Arm could be strengthened in order to admit of its use with perfect safety by the company's cars during the construction of the stone and steel bridge; and to arrange with the company for their paying the cost of such work."

ALD. MACMILLAN advocated "asserting our independence" by putting on a scow instead of building a bridge, "just to show these cantankerous people how long we can go without a bridge."

The resolution was carried.

ALD. WILLIAMS moved, seconded by Ald. Partridge, that the Mayor be requested to interview the Messrs. Dunsmuir, to request the use of the railway bridge for ordinary traffic for a further period of sixty days. If the privilege could not be secured, he thought the council should place a scow ferry for the convenience of the people of Victoria West, who have suffered long enough.

The resolution was unanimously adopted, after a few words by the Mayor in appreciation of the kindness which the Messrs. Dunsmuir have already shown to the citizens in allowing the use of the railway bridge.

The council adjourned at 11 p.m., though some of the aldermen urged that they should remain and vote on the applications already received for the position of medical health officer.

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