

CHIEF CLARK'S INJUNCTION HEARD IN COURT YESTERDAY

Recorder Baxter Argued for City and D. Mullin, K. C., for the Chief—Adjournment Taken Until Tuesday on Request of Mr. Mullin.

Yesterday the police injunction case came before Justice McLeod of the supreme court for hearing, on application of Recorder Baxter, K. C., for the defendants, the mayor and commissioners, to dissolve the interim injunction granted on Dec. 25, restraining the council from reducing the police force to one man, pursuant to their resolution of Dec. 23.

At the outset, D. Mullin, K. C., for the plaintiff, W. Walker, Clark, cited preliminary objections to any affidavits being read by Mr. Baxter, first that this was only an interim order granted for a brief period and it was not open to the defendants to move to dissolve before the expiry of the order, unless special and urgent cause could be shown; second, that the application was dated January 3, 1913, and signed "J. B. M. Baxter, defendants' solicitor," whereas no appearance had been put in up to that time and Mr. Baxter was not at the time the defendant's solicitor; third, that before expiry, such an application could not be heard without the consent of counsel.

These objections were over-ruled.

Affidavits Read.

Mr. Baxter then read the affidavits of Mayor Prink and Commissioners Schofield, Wigmore and Agar, in which they stated that they had no intention to degrade or humiliate the chief, but they acted only to have effective police protection, since the chief had ceased to efficiently fulfill his duties.

The affidavit of Commissioner McLeod was then read. After stating that the other did, he further stated that in his opinion the \$60,000 devoted to the maintenance of the police force could be better employed for the protection of the citizens' rights and property.

Mr. Mullin then read a further affidavit of the chief of police in which he set out that, despite the other affidavits, he still believed that the action was brought to degrade and humiliate him, so that he would be forced to resign, as being the whole police force, he would appear ridiculous in the eyes of the police.

Further that he never dismissed any officer without cause. He also stated in his affidavit that Mr. McLeod had said in the courtroom of the police station, "The chief of police is drunk," when a man was drunk, although the man referred to had pleaded guilty and was fined.

Mr. Baxter, however, objected to any statements being made, that the defendant himself could not positively swear to.

His honor so ruled, and Mr. Mullin asked for a recess to introduce an affidavit of an ex-alderman, setting out a statement made by Mr. McLeod concerning the chief.

His honor said that all these affidavits would not be considered very

little different. The government has retained control over the police by reserving the right to appoint the chief.

Mr. Baxter said that because the government might control the police through the chief, it did not follow that the city ought to provide the government with a police force that it might play with, so to speak.

His honor—"The city's powers are only such as given it by its charter, granted by the legislature."

Several Cases Cited.

Mr. Baxter said that under the original charter there were no city police, only constables. Proceeding, he cited the judgment in the case of Standley vs. Perry, 3rd Supreme Court reports, p. 373, to show that a corporation can only be restrained from exercising powers not conferred on it by the Attorney General, or by individuals suffering special injuries. The chief could not complain of any special injury.

Mr. Mullin—I am not prepared to admit that.

Mr. Baxter cited other cases to show that the proper procedure was for the parties interested to lay information before the Attorney General. One of these cases was that of Merritt and Chesley, Trueman's Equity, p. 334.

His Honor remarked that the cases cited seemed to be fatal to the action of complainants in its present form. Mr. Baxter said the Common Council proposed to rescind the resolution and take the matter over to the chief's appointment to the legislature.

His Honor—"Why threaten it out here then?"

Mr. Baxter said the action of the legislature could not be predicted and the commissioners were determined to have home rule. The injunction was improperly before the court, but he was sensible that action might be taken in proper form and was willing to argue the principle of the case.

Expenditures.

1911 1912

New work.... \$10,794.88 \$ 5,115.49

Repairs.... 25,680.84 14,357.82

General expenses 25,275.88 25,189.00

Sundry expenses 4,176.13 9,575.46

Interest Sinking Fund..... 109,602.24 104,527.52

Totals.... \$175,437.97 \$159,095.32

Receipts 1911 1912

Steamships and

Hotel Arrivals.

Royal.

R. B. Priestman, J. E. Patte, H. V. Clements, Montreal; P. A. Landry, Dorchester; John Sward, Quebec; Geo. Seggie, Paris, France; J. M. Faller, Chatam, Ont.; L. P. Parry, White Cove; A. S. Martin, V. P. Braden, Toronto; H. B. Forbes, Calgary; S. M. Dunlop, Woodstock; R. E. Thorne, R. E. Charlton, L. F. Jacques, Geo. E. Dies, T. D. Henderson, W. Chase Thompson, Montreal; G. W. Parker, St. Louis; John Gibson, Saskatoon; B. H. Morrison, Halifax; Chas. A. Alexander, Campbellton; Mrs. H. D. McIntosh and three children, Newton, Mass.; W. Crowe, Sydney; P. Davidson, Toronto; J. T. Jennings, G. Jones, Fredericton; H. V. Funnell, H. Bingham, Toronto; John Frank, L. E. Jones, Quebec; Murray Huestis, H. N. Gould, Sussex.

Victoria.

A. W. Hay, Woodstock; W. P. Mailman, Toronto; T. Medley Richards, Jr., Edmundston; Reid Richards, do; A. P. Landy, Benton, N. B.; J. E. McAuley, Lower Mills, N. B.; A. C. Causey, Lower Mills, N. B.; G. G. Gaudet, Fredericton; H. B. O'Brien, Truro, N. S.; J. W. McCready, Fredericton; Mr. and Mrs. T. M. Graves, Montreal; Geo. B. Crockett, P. P. Summerman, Boston; E. A. Smith, Hopewell Cape; J. Ramsay, J. L. Feeney, do.

Dufferin.

F. Brunau, Quebec; Michael Kapp, Montreal; D. H. Kitchridge, Granby; Que. R. D. Rigby, St. Andrews; L. Whipple, Montreal; P. P. Leighton, H. H. Newcombe, Halifax; J. C. Bashaw, Montreal; W. R. Finson, Bangor; A. W. Gardiner, Yarmouth; A. P. Bailey, Montreal; D. Phinney, Fredericton; P. M. Crockett, St. Martin; A. Balfour, Montreal; F. M. Graves, Bridgetown; Ernest McKay, Fredericton; J. T. Dolan, Peterboro; G. Johnston, Penobscus.

Obituary.

Samuel J. Stubbs.

Samuel J. Stubbs, a well known North End confectioner, died yesterday morning after a short illness at his home, 50 Harrison street.

Stubbs was a native of England and came to this city with his parents while a boy. He had lived here all his life and leaves many friends.

He is survived by his wife, two daughters, Miss Hazel L. at present in Cambridge, Mass., and one son, Harry C., of the staff of the Royal Bank in North Sydney, who was taken ill, and who is still in the city. One brother, William Stubbs, of Boston, also survives. The funeral will take place on Sunday afternoon.

Adjournment Agreed Upon.

Mr. Baxter—I'm afraid I will not be in the city on Monday.

Mr. Mullin—How about Wednesday?

Mr. Baxter—As I said the council intends to repeal the resolution to abolish the force, but the assessment has to be made up by Wednesday.

Mr. Mullin—Is that a threat?

Mr. Baxter—We're not working any threats.

It was agreed to continue the hearing on Monday afternoon if the Recorder is in town, and if not, on Tuesday afternoon.

FUNERALS.

The funeral of Mrs. Isabelle Miller took place yesterday afternoon at 2:30 o'clock from the residence of her sister, Mrs. Annie Anderson, 33 New Street.

Rev. B. H. Nobles officiated at the burial services and interment took place in the Methodist burying ground.

From her late residence, 81 Main street, the funeral of Miss Mary Murphy took place yesterday afternoon at 2:30 o'clock. Rev. L. A. McLean conducted burial services after which interment was made in Fernhill.

At 3:30 o'clock yesterday afternoon the funeral of Robert Farrell took place from the Chamberlain undertakers parlors. Following burial services which were conducted by Rev. R. P. McKim, the remains were interred in the Church of England burying ground.

WATER AND SEWERAGE MADE FINE SHOWING DURING YEAR

Department will have Surplus of More than \$30,000 as Compared with \$9,000 for Year of 1911—How the Detailed Accounts Compare

Com. Wigmore has drawn up a statement which shows that the Water and Sewer Departments had a surplus of over \$30,000 for 1912, as compared with about \$9,000 in 1911. The main reduction as compared with 1911 in the cost of the water of the water department was in connection with repairs.

The expenditure for repairs shows a reduction of about \$11,000; it is claimed that the policy of keeping tabs on every workman had a great deal to do with this. General expenses were practically the same.

New work for 1912 cost \$5,115.49, as against \$10,794.88 in 1911; but in 1912 \$5,000 was spent on Mill and Dock streets excavation which ordinarily would have been charged to bond issues.

The revenues for 1912 were over \$5,000 greater than 1911. The unexpended balance will be utilized to pay for the concrete sewer on Main street and other new work, instead of issuing comparative statement for the water department is as follows:

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Crushed Oats, and Corn and Oats.

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125 NATIONAL DRUG AND CHEMICAL CO. OF CANADA, LIMITED.

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