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MR SKINNER SAYS NO.

HE DOES NOT AGREE WITH THE MAGISTRATE'S DECISION.

And He Presents His Reasons to the Council For His Opinion—Reviews the Laws and Claims the Power Over the Police Force is not Vested in the Magistrate.

There was no haste or hurry in the movements of the aldermen Wednesday. Perhaps, as it was the first meeting of the year, the council thought it well to begin slowly and not rush matters too much. There were several matters of importance before the board and the first of them—the dredging business—was quickly disposed of. Then another matter which had been referred to the same general committee for consideration came up. This referred to the recent appointment in the mayor's office.

Ald. Millidge seemed to have the matter in hand and he dealt with it moderately and ably. First of all came the recorder's opinion and in this connection there was an interesting discussion which went to show that Mayor Sears does not propose to be a silent chairman. Whether he proposes to be a captious one remains to be seen.

It appears that his worship was not consulted in regard to procuring the recorder's opinion but those aldermen who had the matter in charge asked Mr. Skinner to look up the matter. Mayor Sears was not disposed to agree with this at first and on the ground of irregularity might have ruled the document out of order had not Alderman Millidge and Robinson made certain explanations. Still in his remarks Ald. Robinson contended that as an alderman of the city he had a perfect right to get the recorder's opinion upon any legal matter of which he was in doubt. He presented this view to the chair and the aldermen in a moderate way but it was hardly possible to contradict his arguments.

There was not much discussion over the recorder's opinion. It was a long document—much longer than PROGRESS gives in this article—but it covered the ground so thoroughly that it was the opinion of the board that when it was forwarded to the police magistrate he might be persuaded that the recorder was right and he was wrong. So this decision was arrived at and in anticipation of any change of mind on the part of Mr. Ritchie a committee was appointed to meet him if he wished a conference. The main portions of the opinion of Recorder Skinner were as follows:—

"In my opinion the references to the statutes are all that are necessary to be made to arrive at a correct conclusion as to what the law now is upon the questions submitted to me. The matter is incidentally referred to in the Union Act, but I do not think it necessary to analyze in this opinion the provisions of that act, as the powers and duties of the police magistrate and chief of police were left, so far as the matters under consideration are concerned, just as they were upon the passing of 19th Victoria. Well, then, I will first state what my opinion is upon the question No. 1, that is to say, is the power to assign a policeman for duty, etc., as provided in section 15 of 13th Victoria, chapter 1, still in the police magistrate? I think it is not. I am of opinion that this power was by 19th Victoria taken from the police magistrate and placed in the chief of police, and my reasons for this opinion are as follows:—

"Nineteenth Victoria, chapter 52, was so far as the police magistrate and the policemen were concerned, quite a revolutionary act. The office of chief of police arises from that act; before that act was passed the power of appointing policemen and the control and management of the force, as I have above shown, were in the police magistrate, but by 19th Victoria this was all taken from him and put in the chief. That seems to be the point and purpose of 19th Victoria. Thenceforth the police magistrate was to be left solely to the discharge of his judicial duties, and all the duties regarding the police force, which before the passing of that act were to be performed by the police magistrate, were after its passing to be discharged by the chief of police. I have, as it was my duty to do, looked into the question from the opposite stand point, and have examined the argument that I think could be made in favor of a different conclusion from that to which I have arrived upon this question No. 1. That argument, of course, would be that section No. 15 of 13th Victoria, chap-

ter 1, was not referred to in the repealing clauses of 10th Victoria, etc. My reply to this is, first, the scope and purpose of 19th Victoria above referred to; second, when section 2 of this act said "and the said policemen shall obey all such lawful commands they or any of them may from time to time receive from the chief for conducting themselves in the execution of their office." This language is similar to what was contained in 12th Victoria, chapter 58, which provided that the policemen were to obey the police magistrate. If section 2 of 19 Victoria, chapter 52, stopped here, there would be a very strong argument in favor of this opinion, for if section 15 of 13th Victoria, chapter 1, was not repealed the act of the chief of police in so assigning a policeman to the mayor's office would not be a lawful act, but the section does go very much further. It says on this point as follows:—

"And all the provisions, enactments, powers and authorities relating to policemen in and by the act passed in the 12th year of her Majesty's reign, intitled An act in further amendment of the character of the city of St. John, or any other act or by-law relating thereto, shall be vested in and apply to the chief, and to all and every the said police force so to be appointed as aforesaid except so far as the same may be inconsistent with the act." If there were anything inconsistent with section 2 of 19th Victoria, chapter 52, in giving power to the chief to direct a policeman to attend at the mayor's office, then the reason for the power still being in the police magistrate would be good, but instead of the fact of the power passing from the police magistrate to the chief of police being inconsistent with 19th Victoria, chapter 52, it is in harmony with its purpose and wholly consistent with the provisions of this last named act.

If this power were still in the magistrate, the chief of police might find it very difficult to carry out the provisions of 19th Victoria, chapter 52. It must be borne in mind that section 15 of 13th Victoria chapter 1, does not authorize any appointment to be made. It merely provides for the direction to be given to some one of the policemen to be in constant daily attendance at the mayor's office, etc., and it might be that one policeman should be directed to attend one day or week and another upon another day or week. The chief of police might have allocated a man to some certain duty, and if this power continued in the magistrate he could take that man away from that duty and send him to the mayor's office. But there are so many things that might occur to detract from the power of the chief of police given him under the 19th Victoria, chapter 52, if the power under consideration remained in the magistrate, that I have come to the conclusion that by the repealing words in section 2 of this act, "or any other act or by-law relating thereto," directly covers the question, and therefore the power given by said section 15 is transferred to the said chief, for that rendering all these acts become harmonious and consistent, otherwise they would to the extent under consideration become inharmonious and inconsistent. I therefore, as above stated, am of opinion that the powers, whether directory or imperative, conferred on the magistrate by section 15, were transferred to the chief of police.

"I can readily see that a further consideration of the matter from the standpoint of opinion and direction by me may become necessary, but it may well be that the police magistrate, on being informed of the opinion above expressed will withdraw the direction already given to the policeman to attend at the mayor's office, etc., and not further direct in the matter, and I presume the chief of police will not, seeing that the common council do not want him to direct a policeman to attend, even if he may be of opinion that the statute still entitles him to send a policeman to the mayor's office, where by reason of the changes since the 13th Victoria was passed a policeman at the mayor's office is not required. Another question remains open for consideration, namely, whether or not the power given by section 15 of 13th Victoria, Chapter 1, is directory or imperative. I can see that this may, if the chief should direct a man to attend at the mayor's office, be of importance, and would require consideration. Section 15 seems to be an enabling section, namely, empowering the magistrate and afterwards the chief of police to send a policeman to the mayor's office as long as required. Upon that

point at present I wish to be considered as not expressing an opinion, but if need be will look into it and give my opinion with regard to it."



JUDGE STEADMAN—RESIGNED.

Judge William Wilson of York county received his commission this week. He succeeds Judge Steadman whose portrait appears above. The latter and Mrs. Steadman are living in Florida at present. Judge Steadman is a man well advanced in years and not in the most robust health—hence is resignation. He will no doubt receive a suitable retiring allowance which his long service on the bench entitles him to.

NOT A "MAKE BELIEVE" SOLDIER.
A Fredericton Boy Gave the Yankee Soldiers a Few Tips.

Just now the people of the various United States cities and towns are indulging in loud and enthusiastic farewelling demonstration and their troops are leaving in detachments great and small, and as each company or battalion shakes its native dust from its many feet a shout as loud as heaven's artillery goes up, one after another. Little Calais down on the Maine border had one of these outbreaks the other day when a handful of her soldiery buckled on their armor and "tramped" away in a conveniently appointed railway train. The whole town turned out, bunting flew from every vantage point, and brass bands were plentiful enough on that occasion to drown for a few hours the incessant jingo rabble of the inflammable quota of the city's population. And the procession passed by. From the commanding officers to the "most private" private in the corps there was altogether too much laxity. Hats were waved exultingly, hands were shaken with bystanders and girls were hailed familiarly by the "boys in blue" as they proceeded to the place of embarkation. Such lack of discipline and want of dignity was harrowing to a few emotionless Canadians who witnessed the "military" spectacle. In Canada even, let alone martial England, such unseemly conduct on the part even of a militiaman would be worthy of the dungeon. It's the populace in their countries which does the hallooing, not the soldier.

However, in all the party of "soldiers" there was one man, a solitary militant, who held his head erect, eyes straight to the front, stepped the proper cadences and preserved the honor and dignity of a nation, right arms. The group of Maple Leaf lovers noticed this and called the attention of a howlingly blatherous American nearby to it, saying; "There's a soldier."

"Yes," returned the Yankee not perceiving the identity of the strangers, "he's a new importation from Canada, a R. R. C. I. cadet from Fredericton."

And the St. John men wondered not.

M. A. Ferguson's Forgetfulness.

When Malcolm Ferguson left town there was one man more anxious than some others to know if he would return in a short time. That was Architect R. C. John Dunn. One day when Mr. Ferguson had the misfortune to be arrested on a bailable writ, he asked Mr. Dunn if he would not be responsible for his appearance—and that meant responsible for the amount—rather than see him go to jail. Mr. Dunn is a kind hearted man and with more generosity than discretion he consented. Then Malcolm forgot the fact that Mr. Dunn had treated him so nicely and left town without asking his permission. The forty days passed and there was no Mr. Ferguson to deliver up and the plaintiff said that Mr. Dunn must pay the claim. This was disputed and the case was heard a few days ago. Mr. Dunn said he expected a decision would be given this week.

THE "RING" DEFEATED

COUN. MACRAE'S RACE FOR WARDEN OF THE COUNTY.

He was Beaten by Coun. Lee With the Help of Some City Aldermen who Were not in the Favorite Clique Last Week—How the Affair was Managed.

There was considerable fun for a few of the city aldermen and much disappointment for the others at the meeting of the municipal council this week. The fact was that when the city "ring" had arranged the chairmanships of the different boards and the other positions of importance, Alderman Macrae was the only man who elected to take a position outside of the city council. He chose to be warden of the council in preference to taking a minor position in the civic board. Alderman Hamm, who wanted to be deputy mayor last year and who did not make much if any objection this year at another man being selected, was rather quiet before and after the choice. Of course the fact that he was a revisor with an additional fifty dollars a year could not have influenced him, neither could Alderman Stackhouse have been led away by such an offer to forsake the path of duty and make headway against his companion and colleague, Alderman Smith.

At any rate when the municipal council met almost the first business was the selection of a warden—who is the presiding officer. There were two nominations, Ald. Macrae and Coun. Lee. The former was the choice of the select party who ran things as they pleased at the first meeting of the new common council and should be called in the municipal council, Councillor but the latter has been a representative of the county for some time and was not at all anxious for municipal honors. He is an unobtrusive man and did not want any further part in the council of his county but to serve his parish faithfully. Still the inducements held out to him to make one of the county men warden persuaded him to accept the nomination. To his surprise the county councillors held to him as one man and with the assistance of Councillors McArthur, Smith, Tufts and another he was elected with two of a majority. Such a triumph for the beaten end of the city council was not without its joy to those parties who fought the tactics of the majority or "the ring" as they call it. They said it was a long lane that did not have a turn and pointed to their later victory as a proof of the fact. No doubt it was and it was a greater surprise to some of the aldermen to find Alderman McArthur and Smith arranged against them in favor of Councillor Lee. The latter is a capable and popular man, excelling in his business, shrewd where shrewdness is required and cautious where it is necessary.

No doubt Ald. Macrae was much disappointed. An evening paper, opposed to him in politics, represented him as usurping the functions of warden before he was elected but that was not the intention. A councillor who is looking out for any information has a perfect right to look into the county affairs before the meeting of any council and it is the fact of his doing so is going to be impured to selfish motives it is not much encouragement for civic or county representatives to post themselves. It is strange however that the journal that gave currency to this strange report should credit his defeat to the representatives whom it has always been antagonistic to.

MORE MONEY FOR SAND POINT.

The City Engineer Says 50,000 Yards of Mud Must Be Removed.

Those who have imagined that the improvements at Sand Point were completed will get something of a surprise when they read that the city engineer estimates that some 50,000 yards have yet to be excavated in order to make the big slip safe for large steamers to pass. Four steamers can be at the berths there and of course it is necessary that they should pass and repass each other and it appears that in their hurry to complete the work last fall the city fathers did not do any more excavating than was absolutely necessary. That may have been all right then, but now, supposing perchance that larger steamers might arrive, the necessity arises for widening the slip so that absolute safety shall attend the entrance and exit of large or small steamers.

But if this work has to be done the city is fortunate in having the free use of the dredge Cape Breton. No doubt many people would think that the free use of the

boat and barges and the machinery would be a great boon but the benign federal government has done more than that. The city don't pay for anything, except a tug to tow away the mud after it is placed in the barges. The cost of coal, wages, repairs to the machinery, etc, etc is all defrayed by the government.

And yet, estimating that the average excavation of the Cape Breton will be 500 yards a day, the city engineer said that the cost of towing away the mud would be sixty cents per yard. That is, the cost of a tug daily would be \$30 which, figured out, would make his estimate correct.

It was very properly pointed out however that during this season with depression in the usual business that keeps tugs moving, the cost of a tug should not amount to such a sum. The result of it all will be that tenders will probably be asked for.

One hundred days will be required for the work, which means that if the dredge gets to work in a few days that it will be the middle of September or the first of October before the job is completed.

Where the money is to come from was another question that came under consideration of the general committee and it was learned that the city was counting upon receiving \$56,500 from the Canada Pacific railway in a short time. They had anticipated this to the extent of some \$40,000 and the balance could be used for further improvements, such as dredging etc. Then the pertinent remark was interjected that under these circumstances the work under consideration would probably cost \$6,000 instead of \$3,000.

Alderman Waring's Harbor Plan.

Ald. Waring had a plan of a portion of the harbor in his possession Wednesday that was not made by the city engineer and if the suggestion it contains receives the favorable consideration of the council it will make an important change in the relation of the west side to the east. He proposes that, instead of the ferry curving around in the harbor and seeking an entrance near Rodney slip as it has done for so many years that the boat shall run straight across and land passengers and teams at the foot of King street, Carleton. The people residing near the present ferry slip and the approaches thereto will not like the plan much but the advantages in some respects could hardly be denied. Whether they will outweigh the objections and the cost of making the change remains to be seen. Undoubtedly there would be more room for steamers and the succession of suitable slips on the west side there would be remarkable.

The Chief in Line With the Council.

The chief of police has a very frank way of expressing himself at times. There was an instance of this at the common council Wednesday when called upon to define his line of action in case the magistrate agreed with the recorder's opinion. In a brief but neat way he reminded the council that his interests were identical with theirs, that he could not make an efficient force without their co-operation and assistance and that he would be guided entirely by their wishes. In other words he did not propose to make any appointment to fill the vacancy caused by the death of Sergeant Wilson. Incidentally he remarked that he had known of Caples ill health and had he requested a change there would have been no difficulty in granting his wish.

They Don't Like U. S. Currency.

The authorities at the police office who receive fines do not like to see them paid in American currency. This was instanced this week when a young man went to the office to deposit \$100 as the fine of Roger Varian who assaulted Mrs. Sloan. They refused to take it that way, probably because banks charge discount upon it, and the money was handed in properly. The sentence was \$100 or six months in jail, the doctor pleading guilty to the charge of "aggravated assault." This obviated the unpleasant necessity of calling witnesses.

Five Day Buses in Carleton.

A complaint comes to PROGRESS from Carleton that when it rains in that portion of the city the bus men absent themselves from their usual station and the people have to trudge home from the ferry in the rain. The pertinent question is asked whether this is permitted under the license issued to the drivers by the city. Perhaps his worship Mayor Sears will give the matter some attention.