

IS A MUSICIAN A WORKMAN?

ARE SACRED CONCERTS AT THE ISLAND LEGAL?

An interesting case heard before the Police Magistrate yesterday and referred to a superior court for a decision—The Arguments Advanced Pro and Con.

Owing to the long calendar of drunks and disorderlies yesterday morning the hands of the Police Court clock pointed to a quarter to twelve before the case against Bandmaster Bayley of the Queen's Own, for playing sacred music at Hanlan's Point on Sundays was called.

Mr. W. H. Raymond of McCarthy, Oster, Hoskin & Creelman, appeared for the Toronto Ferry Company, and a discussion arose at the outset between him and Crown Attorney Curry as to whether Mr. Bayley or Herbert Plant, Thomas Griffin and John Waldron should all be tried, or whether a conviction in one case would suffice. Magistrate Denison wanted the cases tried in one, and Crown Attorney Curry could not see it that way, holding that there might be a difference between a bandman who merely played once or twice a week while following a regular trade or profession throughout the other days, and a leader who gave his whole time to his work and followed music as a profession. The counsel for the crown and the magistrate indulged in quite a lively argument on this, and after Mr. Curry had been overruled, he said: "Mr. Wardley might under the statute swear Mr. Bayley." It was decided, however, to call Mr. H. C. Hammond, who is a partner of Mr. Oster, the president of the Toronto Ferry Company, and largely interested in the company.

"You are one of the stockholders in the Toronto Ferry Company, are you not?" began Mr. Curry. "Hold on," said Mr. Wardley, and he read the charge against Mr. Bayley and the statute, which says that no mechanic, laborer, or any other person whatsoever shall engage in his ordinary occupation on Sunday. "Do you plead guilty or not guilty?" "A. Not guilty."

"Do you know Mr. Bayley?" "A. Yes."

"His ordinary occupation is a bandmaster?" "A. Yes, also a professional musician."

"Has he been engaged by the Toronto Ferry Company?" "A. Yes, he and his band."

"When?" "A. During the summer of 1935, on numerous occasions."

Mr. Raymond here objected that proof of his calling was necessary and whether he followed his calling on that day.

"Engaged Week Days and Sundays." Continuing, Mr. Hammond said: "He has been engaged by them on Sundays and week days."

"On Sunday, Aug. 11th, he was employed in what capacity?" "A. Conducting the Queen's Own band."

Magistrate Denison here interfered out of fairness to the defence to explain that there was more in the question than appeared on the face of it. "Suppose," said he, "an organist played in his church on Sunday, that would be his ordinary calling."

"Is this an advertisement?" continued Mr. Curry, taking a newspaper in front of Mr. Hammond.

"Who is Responsible?" Solicitor Hammond jumped to his feet. "My objection applies to this also," said he, "that advertisement was put in under the authority of the Toronto Ferry Company, and the defendant would be responsible for an advertisement that he did not put in."

Mr. Curry: "This would show whether he carried on his usual business. Mr. Hammond then told where the concerts were conducted and that Mr. Bayley made up the program and would be responsible for it."

"On this Sunday, Aug. 11," continued Mr. Curry, "were there any religious exercises?" "A. No, none at any time this year."

"As a Sunday Pleasure Resort." "I think that you said that the place known as Hanlan's Point, is owned by the Toronto Ferry Company, and is a pleasure resort?" "A. Not Sunday days."

"People in search of pleasure are carried over by the Toronto Ferry Company?" "A. I don't think they go for fresh air."

"Well, you didn't question them. The Magistrate: "What's the real difference?" "They were sacred concerts?" "A. Yes."

"Did Mr. Bayley play any secular music?" "A. Yes, he played both sacred and secular music."

"Were there any sacred concerts on the 11th?" "A. No, only one, that of the afternoon."

"There was no charge for these concerts, only the ordinary charge for conveying people over and back?" "A. The music was paid for, but not their tickets over and back."

"When did these concerts start?" "A. In June, 1934."

"The object was to increase the attendance on the ferry?" "A. As far as it was begun with that idea."

"And you were going on to say?" "A. That it did not turn out that way. We hoped it might later, and it was also to draw a more respectable class over there; a better class of citizens."

"And to make it a good place to go on Sunday and for financial benefit to the company?" "A. Yes."

Mr. Hammond then took the witness in hand. "The concerts were open to the public, to any one from the city?" "A. Yes."

THE DOGS OF A QUEEN

ROYAL KENNELS OF ENGLAND AT HOME PARK, WINDSOR.

Managed With the Order and Regularity of a Military Barracks—Queen Victoria's Love for Animals.

That Queen Victoria should be fond of dogs is not surprising. It is a trait which has bequeathed to most of the Kings, Queens and Princes of Great Britain. Most of her predecessors on the throne of England had much of the same fondness for the canine race. Edward II. was a famous dog fancier. Henry VII. was a great lover of dogs. The affection which Mary Stuart had for a faithful little dog which died of grief at the story of her execution, is a well-known incident in the life of the Queen of Scots.

"Music is your occupation. So far as it is concerned one is as much a part of your duty as the other."

Mr. Raymond then wished to call Inspector Stephen to the stand, but the performances were orderly, but the magistrate replied that it was unnecessary and that he would admit that it was then desired that Herbert Plant should be called. It was then desired that Herbert Plant should be called. It was then desired that Herbert Plant should be called.

There cannot possibly be any distinction between the two cases. Mr. Raymond—There might be this distinction. A man might be a painter or a doctor five days in the week and play on the other days.

The opinion of a Higher Court. Mr. Magistrate Denison may tell you candidly that I want to get the opinion of a higher court on this. A man might play all day every day and play in a theatre at night. I think we had better take only the one. A band conductor without a conductor.

Mr. Raymond—"Suppose Mr. Bayley's band plays over there without a conductor at all. The fact that he has ever had this action taken against him would not prevent their playing."

The Magistrate: "That is an absurdity. Mr. Raymond: A point might be taken out of it."

The Magistrate: Well, I have seen point raised that could be discovered with a microscope. I can't see this with a telescope. You understand that I am not going to be my head much about it. The Superior Court should decide on it. After I dismiss the case—"

Mr. Raymond: You will never do it again. (laughter.)

The Magistrate: Well, I will decide on the act itself."

Mr. Raymond: This prosecution is for doing any work or labor, business or calling by certain workmen or persons who are engaged in their ordinary occupation on Sunday.

The Magistrate: By any mechanic, workman or laborer, or any other person whatsoever, who is engaged in his ordinary occupation on Sunday.

Mr. Raymond: "Pretty wide isn't it?"

Mr. Raymond then quoted a decision on a similar case, which decided that the words "or any other class whatever," must apply to the classes named and to classes named.

The Magistrate: "Still, how do you get a barber in it?"

Mr. Raymond: A barber is supposed to be an artist, a professor.

Mr. Raymond: Well, a barber is possibly a laborer, workman or mechanic. I shall be very much surprised if you get a barber out that a musician is a workman.

They Both Saw One a Violin the Other a Workman. The Magistrate: A laborer saw wood, the musician his violin; what's the difference? (laughter.)

Mr. Raymond: The matter is not one of fairness to the defence, but of kind. I am not afraid of anything of the kind. I will hear the matter out on this point, but I am not afraid of anything of the kind.

The Magistrate: Have you a decision that a musician is not a workman?"

Mr. Raymond: No. The Magistrate: I think it is extremely important to know the circumstances. It would be better to have the matter decided by the Superior Court. I have seen no advertisement in the paper, but I will hear the matter out on this point, but I am not afraid of anything of the kind.

Mr. Raymond: What about coachmen, cab drivers, small farmers or laborers?"

The Magistrate: A farmer is different. working on his own ground, not working for hire. I think that is really a different case. I will hear the matter out on this point, but I am not afraid of anything of the kind.

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TORONTO'S HEALTH VERY GOOD

Medical Health Officer Says Precautions Have Been Successful.

The Local Board of Health meets this afternoon at the Medical Officer will ask for an order closing Lavender Lane, as unfit for habitation by the Board of Health.

The number of typhoid fever for the 16 days of September is 38. This is equivalent to the whole month of September, 1934. The Medical Health Officer does not attribute the increase to the outbreak of the typhoid fever. He anticipated an increase of 50 for the month, owing to the lowness of the bay and lake.

Engineer Keating estimates the cost of putting College-avenue and a portion of the street in good repair at \$4000.

City Clerk Hevins, who has returned from the annual convention of the Cincinnati, denies the sensational story of disgraceful proceedings at the banquet.

The Board of Works, the Executive Committee of the City Council will meet on Thursday.

The Abel Manufacturing Company, Parkville, Mo., has informed the city engineer that it is a plentiful supply of spring water on their premises, and that they are willing to supply the city with water.

Specifications for the anchoring of the conduit are ready at the City Hall, and a number of tenders have already been received.

Island Water Auxiliary Plant. Messrs. Egan & Watson, architects, of Meaford, Ont., have submitted a new offer for the erection of a pumping station on the Island.

The firm also submitted a plan for the present waterworks pumping outfit. They propose to place the plant to the north of the old shore crib, and to make connection with the 5-foot steel pipe by an offset to the main existing pipe.

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TRUSTS CORPORATION

OF ONTARIO.

Safe Deposit Vaults 19-21 King-St. W., Toronto.

Capital.....\$1,000,000

President—Hon. J. C. Atkins, P.C. Vice-Presidents—Sir R. J. Cartwright, K.C.M.G., Hon. S. C. Wood, etc.

Trustee, Guardian, Committee of Lunatics, etc., and undertakes all kinds of Trusts.

Moneys to Invest at low rates. Deposits managed, rents, incomes, etc., collected.

Trusts Boxes to rent in vaults, absolutely fire and burglar proof. Will appointing the Corporation executor, received for safe custody, without charge.

Solicitors bringing estates to the Corporation retain the professional care of same. A. E. PLUMMER, Manager.

John Catto & Son, Dry Goods, King-St. (opposite Post office), Toronto.

Mantle, Cloak, Cape, Jacket or Coat. Such as you will scarcely see elsewhere.

We are showing a very desirable line in Sterling Silver and First Quality Plate. These include Five, Double, Three, Five and Seven-Branch Pieces.

Ryrie Bros., Cor. Yonge & Adelaide-sts.

Light Weight Fur Overcoats. In several shades of Gray, Fawn and Brown, Black and Blue.

Our \$10 Coat is a marvel of good value in quality of cloth and trimming. The style is perfection.

\$7 to \$12. One-Price Clothiers, 115 to 121 King-St., E., Toronto.

W. A. Murray & Co.'s Fall Opening. The fall opening of W. A. Murray & Co., yesterday was a great success and all day this leading store was thronged with fair purchasers.

The goods made in the display, and several new lines having been opened, it might be worth while to dwell upon some, which were not included in our remarks of Monday. Speaking of styles, a chance remark of a lady who had just returned from England, might be interesting.

"It seemed just like Regent-street, London, the goods were of such identical fashion." The more this fall's fashions are mastered, the more do we find that the goods are of such identical fashion.

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