

SCHOOL BOARD MEETING.

The Estimates for the Current Year's Expenditure Considered and Passed.

New School for Oaklands and an Addition to the Victoria West Building.

At the School Board meeting Wednesday, with Charles Hayward in the chair, and Messrs. Saunders, Lovell, Bishop, Yates and Marchant present, Mr. B. Williams was unanimously re-elected secretary, with a monthly salary of \$35.

Sanjour Bros. wrote offering to tugpoint the brick of the North Ward school for 25 cents a yard. Referred to the architect to report.

A petition was read from 35 ratepayers of the Oaklands estate, asking for a school in some central part of the settlement, in which there were 40 children of school age.

TRUSTEE MARCHANT moved that an amount be placed on the estimates for the purchase of a site, and to build and equip a one-room school. Considering that the present schools were congested a new school was necessary.

TRUSTEE BISHOP warmly supported the motion.

Messrs. W. Nicholas, A. Olsen, N. Sabin and W. Clark, a deputation from the petitioners being present, spoke in favor of the petition, and after some discussion the motion was carried.

Mr. Hawkey wrote that on several occasions the fence around the Spring Ridge school had been maliciously damaged, and on motion of Mr. Lovell it was resolved to bring the matter to the attention of the police.

A report of the attendance of teachers at the Teachers' institute was received from Mr. Pines.

TRUSTEE MARCHANT took exception to the large number of absentees reported, and moved that the attention of the secretary of the institute be called to the fact. When the schools were closed earlier on the days when the institute met, teachers should attend the meetings.

TRUSTEE YATES thought the matter might be looked into. He moved in amendment that the matter be referred to Trustee Marchant to investigate. The amendment was carried.

Applications for various supplies for schools were referred to the Supply committee, as also a case where the supply of books to a pupil was recommended.

In regard to the boiler at the Victoria West building, which the contractors wanted to put in the West ward school, a report was read from Mr. Inspector Thomson saying that it was quite capable for the purpose.

Mr. Soule, the architect, however, wrote that he considered that the boiler was not according to specifications, and he had therefore refused to receive it.

After some discussion

THE CHAIRMAN remarked that the boiler cost \$100 less than the one in the specifications, and the contractors were willing to make the reduction. Besides, the boiler was made in Victoria, whereas the specified one would have to be got from the East. He read a letter from the contractors, Efford & Smith, offering to make the difference in the reduction of cost, and if the boiler were not satisfactory, to remove it at their own expense.

TRUSTEE YATES moved that the contractors be informed that the contract must be adhered to.

TRUSTEE MARCHANT moved in amendment, seconded by Trustee Saunders, to refer the matter back to the committee. The amendment was lost, and Trustee Yates' motion carried by three to two, Messrs. Yates, Bishop and Lovell voting in favor, and Messrs. Marchant and Saunders against.

The committee on the Nicholson correspondence reported as follows: Your committee charged with this affair having carefully examined the school law of this Province, the evident purpose of the regulations set down by the Council of Public Instruction, the statements made in the letter sent by Mr. Nicholson, and the verbal reply received by the chairman of the board from Mr. Nicholson, report and recommend as follows: 1. That Principal Nicholson is correct in his assertion that the programme adopted in Victoria West is in accordance with the regulations of the Council of Public Instruction. 2. That it is evident that two of the four subjects declared optional in the regulations of the Council of Public Instruction are subjects that may be taught with better results to the pupils in the high school, and which subjects the department recommends be not taught in graded schools of cities where a high school is located. 3. That it is further evident from the published list of tables of the Central graded schools, and the Victoria West—that there is a diversity between them. It is therefore recommended that notification of this diversity be immediately sent to Principals, Miss Williams, Messrs. Netherby and Nicholson, requesting them to meet at an early date and determine the limit tables that shall be used in each of the schools of the city. Principal Netherby to be the convenor of such meeting. In case of any disagreement concerning such tables, that Dr. Pope be requested to settle any question in dispute. Your committee feel the exceeding importance of this recommendation, and in view of the speedy opening of the new Graded schools of this city. 4. That the written examinations taken by corresponding divisions in each of our schools should be absolutely identical and uniform; the principal of the schools co-operating in the preparation of the papers.

(Signed) C. HAYWARD, Chairman.

J. B. LOVELL, W. MARCHANT, Committee.

Report received and the suggestions ordered carried out.

The school attendance for December was reported as follows: Average daily attendance, 1,593.72; average actual attendance, 1,575.05; total pupils attending, 1,807.

TRUSTEE LOVELL moved that the weight of all coal supplied to the Board be certified by the market clerk. This was carried.

A number of letters were referred to the Finance committee to be paid if found correct, and several applications for positions as teachers and from would-be janitors were laid on the table.

TRUSTEE YATES would like to see pupils at the schools thoroughly instructed on temperance, and the injury brought about by the use of narcotics. He moved that the section in the act providing for this be brought to the attention of the principals of the schools. Carried.

TRUSTEE MARCHANT moved that in view of the new school being erected in South ward, the power authorities be moved to have the power magazine and powder removed from Beacon Hill. Carried.

TRUSTEE YATES moved that all the salaries of lady teachers reduced last August be restored. The salaries of the different positions should be the same, whether filled by

men or ladies, and it was not fair to make a distinction.

TRUSTEE BISHOP supported this, but Trustee Marchant dissented, holding it was unjust to pay female teachers as much as males, as the school act allowed females to teach at the age of 16, while males were not allowed to teach for two years more. It was reasonable, therefore, to suppose that the males, by two years more study, were better prepared.

TRUSTEE YATES' motion was lost.

TRUSTEE MARCHANT moved that Trustee Lovell and Bishop be a committee to define school districts for the city. Carried.

The estimates were next taken up and disposed of as follows:

ORDINARY EXPENDITURE.

Janitors	\$2,400
Fuel	600
Secretary's office	600
Printing and advertising	300
Furnishing	400
Repairs	3,500
Teachers' salaries	35,000
Sundries	1,500
Total	\$43,800

EXTRAORDINARY EXPENDITURE.

Oakland School (building site and furniture)	\$2,500
West Side School (addition)	1,500
Total	\$4,000

After authorizing the putting of a telephone in the Secretary's office, the Board went into committee of the whole with closed doors.

FULL COURT.

(Present: Sir Matthew B. Begbie, C.J., Drake and Milne.)

Jackon v. Jackson & Mylius—This was an appeal from the whole of the judgment of Mr. Justice Crease in the action which was brought by the plaintiff, Mrs. Margaret Jackson, to recover the sum of \$12,043, a sum of money alleged to have been advanced to the firm of Jackson & Mylius, who were the firm of the plaintiff's partner, Cella Mylius was a partner. The defence in the action was that Mrs. Cella Mylius was not a partner, and until the case reached the appellate court the point was not raised that the statement of defence did not make a specific denial of the non-existence of the alleged partnership or of any partnership.

Judgment was given against the defendant, Cella Mylius at the trial for the full amount claimed and costs.

Mr. F. B. Gregory (Belyea & Gregory) moved to have the judgment reversed or varied, and judgment entered for the defendant, Cella Mylius. He relied on the evidence to establish no partnership, either by deed or by holding out.

Mr. Helmsken, who appeared for the respondent (plaintiff) contended that the denial of the partnership in the pleadings was evasive and not specific, and argued that he was entitled to judgment on the pleadings. This view of the case, as presented by the Chief Justice and Mr. Justice Drake, Mr. Justice McClelland dissenting, he holding that the pleadings were in accordance with the best precedents, and were the usual pleadings in such cases.

Mr. Gregory then asked on what terms he would be allowed to amend the statement of defence, so as to amend specifically deny the partnership in accordance with the views of the majority of the bench.

The court after discussion decided to give the appellant a choice of two alternatives: (1) That the judgments should be set aside and a new trial ordered, the appellant to pay the respondent's costs of the appeal, and be allowed to amend the pleadings as advised, costs of the lower court to abide the event, or (2) to have the present judgment reduced from \$12,043 to \$5,270, each party to pay his own costs of the appeal, it being apparent from the evidence that this lesser amount was actually received by the firm of Jackson & Mylius.

Mr. Gregory asked time to consider this, and the court adjourned for luncheon. After luncheon Mr. Gregory announced that he would respectfully decline to accept either of the propositions, and would not consent to any arrangement whatever short of what he had asked for in the appeal. The court declined to hear him on the questions of law involved, holding that judgment should go to the plaintiff on the pleadings for the \$5,270, and judgment was entered accordingly. Mr. Justice Drake dissenting and stating that he thought the judgment should be set aside and a new trial ordered.

Mr. Gregory then asked for a writ of certiorari, and the court, in order that he might appear from the judgment of the Full court to the Supreme court of Canada.

DIVISIONAL COURT.

(Before Sir M. B. Begbie, C.J., McClelland and Drake, J.J.)

Foot vs. Mason—This was an appeal from an order of Mr. Justice Crease, dated 22nd instant, extending for one year the time (seven days) limited by an order of Mr. Justice Drake, made upon summons on the 15th instant, for the plaintiffs to give security for the costs of their action, and providing that otherwise the action should be dismissed. The defendants had moved to set aside the order, and the court, after hearing the evidence, ordered that the plaintiffs do not give the security within the extended time.

The grounds of appeal were: 1. That there is no jurisdiction to vary by an ex parte order the terms of an order made upon summons after hearing the parties. 2. That the order of Mr. Justice Crease made no provision for dismissing the action on default of the security being given within the extended time. W. J. Taylor for the defendant appellant; J. P. Walls for the plaintiff respondents.

Mr. Justice Crease expressed an opinion that the ex parte order was irregular, and that the plaintiffs were out of time.

Mr. Walls, for the respondents, submitted that the Court had jurisdiction now to grant the necessary extension of time. The reason the security was not given within the extended time was owing to the action of the court, and the court, in its ex parte order, as if it were held to be incompetent, the giving of the security would have been too late to prevent the dismissal of the action; but the plaintiffs were now prepared to give the security if the court, in the exercise of its discretion, extended the time, and were also prepared to pay the costs occasioned by the appeal. (Re McCreath, Economic Building Society, 24 Ch. Div. 496).

Begbie, C. J.—The court has jurisdiction by Rule 674 to give any judgment and make any order which may be just and as the case may require. We do not think that it would be just to dismiss the action and put the parties to the cost of the action when the plaintiff is now ready to give the security. The order will therefore be that, upon payment by the plaintiffs of the costs of this appeal and of the defendant's motion to review the ex parte order in Chambers, and upon giving the security under the order of Mr. Justice Drake, within forty-eight hours, the plaintiffs be at liberty to proceed, otherwise the action to stand dismissed with costs.

Drake, J.—Our judgment is not to be taken as an expression upholding the granting of ex parte orders on such motions. The next case of the kind that comes before the court may be dealt with in a different manner.

PROVINCIAL LEGISLATURE.

Fourth Session of the Sixth Parliament.

NINTH DAY.

WEDNESDAY, JANUARY 31, 1894.

The Speaker took the chair at 2 o'clock. Prayers by Rev. J. M. Douglas.

PETITIONS.

Mr. CROFT presented a petition from C. T. Dugan and others respecting a railway from Kalo.

Mr. HOBNE presented a petition from A. Maclean and others asking that a certain contract with the municipality of Richmond be declared good and valid.

The petition of the Hall Mines Company respecting a railway to the mines was read and received.

REBATE ON TIMBER ROYALTIES.

Mr. FORSTER moved for copies of all orders in council authorizing the allowance of a drawback or rebate on royalties on any piles, spars, or timber, with the amount of the same allowed, and the name of the company or person to whom the rebate has been granted.

Motion agreed to.

SALVATION ARMY MARRIAGES.

HON. MR. DAVIS moved for leave to introduce a bill intituled "An act to extend the application of the 'Marriage Act' to the 'Registration of births, deaths and marriages act' to the society called the Salvation Army."

Bill introduced and read a first time; second reading to-morrow.

LICENSES ACT.

HON. MR. DAVIS moved for leave to introduce a bill intituled "An act to amend the 'Licensing Act'."

Bill introduced and read a first time; second reading to-morrow.

EASEMENT OF LIGHT ACT.

HON. MR. DAVIS moved for leave to introduce a bill intituled "An act to abolish the right to access and use of light by prescription."

Bill introduced and read a first time; second reading to-morrow.

THE INDIAN RESERVE.

DR. MILNE moved that a respectful address be presented to His Honor the Lieutenant-Governor requesting him to cause to be sent down to the house copies of all correspondence between the government of this province and the government of the Dominion relative to the Songhees Indian reserve, or better known as the Indian reserve, situated within the corporate limits of the city of Victoria.

As the land had acquired a great value solely by reason of the city's growth, it was only fair that the municipality should receive the advantage of this, if the Indians reserve could secure possession of the land it would be transferred to the city on terms advantageous to both.

HON. MR. DAVIS said that unfortunately what was desired could not be obtained by merely writing a letter. Negotiations with the object of the requirement of the reserve for other use had been going on for a long time, but little progress had been made as the matter is a complicated one from the fact that besides the interests of the Dominion and provincial governments those of the Indians have to be considered. When they gave up the rest of their land they were assured by treaty of the possession of this reserve for themselves and their heirs for ever, and as this treaty is to be respected, they can be removed only by their own consent. Of course the Indians are subject, like other persons, to the right of expropriation for high public reasons, and when all negotiations fail peremptory action will have to be resorted to.

Mr. GRANT supported the resolution; he thought that when a suitable place was found for the Indians, and the city of Victoria acquired possession of their present reserve, the citizens would lay aside a sum to assist them in living at some other place.

HON. MR. DAVIS said there is no doubt that if the Dominion Government were to give another site to the Indians for their compensation to the Indians if they acquire the land. He did not think it would be of particular benefit to the city if the land were expropriated for railway purposes. He advocated that the city should lease it for long terms to persons who would improve it.

Motion agreed to.

GAME PROTECTION ACT.

MR. MARTIN moved for leave to introduce a bill intituled "An act to amend the game protection act (1892) amendment act, 1893."

Bill read a first time; second reading Monday.

MONEY IN ARREAR.

MR. SWORD moved "That an order of the house be granted for a return showing the sums, if any, due and unpaid on land sold in the various prices at the close of the financial year, 30th June, 1893."

HON. MR. DAVIS suggested that the return should be up to date.

Motion so amended and agreed to.

MR. SWORD moved "That an order of the house be granted for a return showing the amount, if any, of land registry fees due and unpaid at the close of the financial year, 30th June, 1893, the names of those in arrears, with the respective amounts and the years in which such arrears accrued."

MR. CROFT suggested that the return cover until the 31st of December.

Motion so amended and agreed to.

NAKUPUS AND SLOAN RAILWAY.

MR. SEMLIN moved "That a respectful address be presented to His Honor the Lieutenant-Governor, asking His Honor to be pleased to cause to be sent down to the house copies of all orders-in-council, contracts, tenders and correspondence between the government or any member thereof and the contractor for the construction of the Nakupus & Sloan railway."

MR. DAVIS said there appeared to be no necessity for this motion, as it was stated in the speech from the throne that these papers would be laid before the house; there was, however, no reason why it should be opposed.

Motion agreed to.

REPORTS PRESENTED.

HON. COL. BAKER presented the twenty-second annual report of the public schools; a manual of school laws and school regulations; and a statement of bonds given by public officers.

THE SCHOOL FRANCHISES.

HON. MR. BEAVER inquired if it is the intention of the government to amend the act relating to the election of school trustees as to do away with the absurd provision that the school tax for the current year must be paid to entitle a man to vote.

HON. MR. DAVIS said that "absurd provision," as Mr. Beaver termed it, appeared to be on the lines of the amendment made to the Municipal act last year at that hon. gentleman's request, making the taxes due two or three months earlier than they had previously been. He was not personally responsible for the provision though he had voted for it in the belief that it was of the character as the other changes respecting

the payment of taxes. When he came to find out afterwards what it really provided; he was sorry that it had been allowed to pass.

HON. COL. BAKER said it is the intention to amend the act in the direction suggested. As Mr. Beaver had himself voted for the provision complained of it did not seem very well from that gentleman now to call it absurd.

HON. MR. BEAVER replied that he objected to the provision when it was before the Committee of the whole, but he could not get the Minister of Education to agree with him. Referring to the Attorney General's remarks on the subject of making municipal taxes payable at an earlier date, his (Mr. Beaver's) amendment was to make the time up to which the rebate applied, the 31st of October, instead of the 1st of December, which was the present month.

HON. MR. DAVIS—You wanted to make it the 1st of June.

HON. MR. BEAVER said this was not the case. He thought, however, it would be better to have it provided by law that the municipal taxes should be taken the year before the taxes are due, so that they could be paid at the first of the year, thereby avoiding the necessity for paying interest on borrowed money to carry on the municipal business while waiting for the collection of the taxes.

HON. MR. DAVIS expressed surprise that Mr. Beaver should suggest such a course. If Mr. Beaver's amendment were adopted the inconvenience likely to result from the provision now proposed to be amended, he had not brought in an amendment to the adoption of the report of the committee, as it was his custom to so place on record his dissent to anything of which he did not approve.

HON. MR. TURNER said he found, in turning up the records, that this portion was not in the bill originally, but had been introduced in committee. His impression had been that it was by the leader of the opposition himself. (Laughter.)

COAL MINES REGULATION.

MR. KEITH asked: 1. Is the amendment to the coal mines regulation act of 1890 constitutional or in other words, is it not workable? 2. And if said act is "constitutional," is it the intention of the Government to enforce it?

HON. MR. DAVIS replied that since this question had been put on the order paper an opinion on the subject had been given by Mr. Speaker, which he noticed was to be made the subject of an appeal to the house. He believed the present question to be out of order, but would not go into the matter fully just now, as he intended to give his opinion at some length when the appeal came up.

THE SPEAKER announced having received instruction that the appeal against his decision had been dropped.

HON. MR. DAVIS said he thought Mr. Keith's question was out of order under paragraphs 116 and 117 of the Rules of Order, and he asked for a ruling on this point.

THE SPEAKER ruled that the question was out of order.

REDISTRIBUTION BILL.

MR. BROWN asked: "Is the Government prepared to name the day upon which the redistribution bill will be brought down to this house?"

HON. MR. DAVIS—The bill will be brought down in due time, but I cannot name the date.

TAX ON MORTGAGES.

DR. MILNE asked: "Is it the intention of the government to repeal so much of the personal property tax enactment as relates to money loaned on mortgage on real estate?"

HON. MR. TURNER requested that the question be laid over until Monday.

THE GAUVREAU EXPEDITION.

MR. SWORD resumed the adjourned debate on the motion of Mr. McKenzie for the appointment of a committee to inquire into the charges made against the management of the Gauvreau expedition. As the correspondence was voluminous he requested the house should appoint the committee, which could then examine the letters.

HON. MR. VERNON moved that Mr. Hall's name be added to the committee, as he represented the district where the expedition had been and had made personal inquiries there.

MR. BOOTH expressed the hope that the committee would not go further than the examination of the correspondence without reporting to the house, as there was likely to be considerable expense involved.

Motion agreed to.

PARTNERSHIP BILL.

HON. MR. DAVIS moved the adoption of the bill introduced from committee on the partnership bill.

MR. SWORD requested that the matter might be allowed to lie over, as he had just given notice of some amendments. He also questioned the desirability of providing for the compulsory registration of existing partnerships.

Motion withdrawn.

WITNESSES AND EVIDENCE BILL.

The house again went into committee on the witnesses and evidence bill. Mr. Keith in the chair.

Bill reported from committee.

SUPREME COURT BILL.

The house went into committee on the Supreme court bill, Mr. Stoddart in the chair.

HON. MR. DAVIS moved a series of amendments to the bill, which originally created Nanaimo a separate judicial district, so as to create also a separate district for West Kootenay, with headquarters at Nelson.

The committee rose and reported progress.

HORTICULTURAL BILL.

HON. MR. TURNER moved the second reading of the horticultural bill. He said this had been introduced with the object of carrying out the provisions of the acts already passed in the house, which it had been found did not give enough power to members of the board. The bill is a very important one, as it will largely deal with the increase in the province, and the prevention of the spread of insect pests introduced from other places had become a necessity. One pest in particular to which a great deal of attention is now being paid is the European spruce sawfly, which a few years ago put in its appearance in British Columbia.

The bill passed its second reading and was committed; the committee rose reporting progress.

PETITIONS.

MR. EMMERTS presented petitions on behalf of the Cariboo Hydraulic Mining Company, and also on behalf of the Horseshoe Hydraulic Mining Co.

NOTICES OF MOTION.

MR. KIRCHER—On Friday: To ask leave to introduce a bill intituled "An act to amend the wide street act, 1893."

HON. MR. DAVIS—On Friday: To ask leave to introduce a bill intituled "An act for the prevention of accidents by fire in hotels and other public buildings."

MR. SWORN—On consideration of the report of the partnership bill: 1. To strike out Part III; 2. To amend section 68

by striking out the words "in the case of any member of the firm, ceasing to reside in the province."

MR. ADAMS—On Tuesday: Whereas the modification of the import duties on rubber goods generally, agricultural implements, and machinery, mining machinery and other goods not manufactured in the province would be of great advantage to those engaged in the various industries of the province: Therefore be it resolved, that an humble address be presented to His Honor the Lieutenant-Governor requesting that strong representations be made to the Dominion government to have the duty on rubber goods, agricultural implements, and machinery, mining machinery and other goods not manufactured in this province modified.

MR. HOBNE—On Monday: To ask leave to introduce a bill intituled "An act respecting preference of wages and salaries in case of assignments for benefit of creditors."

MR. HOBNE—On Friday: That an order of the house be granted for a return of all lands sold for taxes under the assessment act, 1893, to the present date, showing the description of the property, the date of sale and the amounts realized for each parcel.

MR. GRANT—On Friday: Whereas the largest portion of this province is without railway communication, and whereas the line proposed to be traversed by what is known as the Canadian Western Central railway would give transportation facilities practically now for commercial purposes, and whereas it is believed to be sufficient evidence now available to justify the suspicion that the unfortunate woman was deliberately poisoned.

The steps taken in the matter by Superintendent Hussey were in consequence of his having received a letter, in reference to the case from Officer McNeill, now stationed at the Pass. The next move in the case would probably be the arrest of Postmaster Collinson on the charge, under the new code, of neglecting to provide medical aid for the unfortunate woman upon her request that a doctor be called.

The jury empanelled for the case yesterday afternoon is composed of Messrs. Henry Waller, W. H. Bone, E. Erskine, E. Pearson, Henry Short and E. Bray; and the first witness called was Undertaker Thomas Story, of Victoria.

MR. STORY'S evidence was to the effect that on Sunday evening Captain Ridd brought to him a note from W. T. Collinson, giving the measurements of the deceased and requesting that a coffin, to cost \$15 or \$20, be sent immediately to the Pass. This order was duly executed, and the body was received by the Monday night steamer, Mr. Collinson accompanying it to the city. He (witness) opened the coffin and saw the body of the deceased woman. Between 9 and 10 o'clock Tuesday morning Dr. Morrison came to his undertaking room and viewed the body; he made no examination of the body, did not remove any portion of the body, and did not examine it in any way, simply looking at it as it came, and remaining less than five minutes. He (Dr. Morrison) gave the formal certificate, ascribing cardiac disease as the cause of death.

An official copy of the certificate referred to was produced. It contained the information that the signer—Richard Morrison, M.D.—had examined Mrs. Elizabeth Roberts, stated to be 54 years of age, on the 30th January, the having died at Plummer Pass on the 28th instant; that the cause of death was cardiac disease, and that the disease continued about seven weeks.

In reply to a juror, the coroner denied that it was the fact of the case, as an examination of the body as Dr. Morrison was stated, in Mr. Story's evidence, to have made. Of course in cases of smallpox or diseases of similar character, it would be possible to pronounce the cause of death from the contents of the stomach, but in this case it was not possible in a case of cardiac disease, which Dr. Morrison had certified to be the cause of death.

F. S. Hussey, superintendent of police, taking the witness box, deposed that from information received from the police at Plummer Pass, he was advised that Mrs. Elizabeth Roberts, the deceased, had been found by the authorities for entering a fraudulent certificate of death.

MR. SHORT suggested that as the Legislature was now in session it would be well to suggest to the Attorney-General the desirability of similar legislation here, if it were found that an order had been covered adequately the offence