

18. Defendants have repeatedly recognized and paid claims for pension after service for 25 years, and upon facts and circumstances similar to that of plaintiff.

20. The action of the police commissioners in refusing to sanction the favourable report of the committee is contrary to natural justice and public policy, and the amended rules and regulations made after plaintiff became a member of the force, in so far as they are invoked to support such action, are also contrary to natural justice and public policy, and are null and void as against plaintiff.

24. The defence to this action is not approved by the Toronto Police Benefit Fund, but is authorized by defendants the police commissioners.

25. During the negotiations for plaintiff's engagement by the city of Brantford as chief of police, the defendants the police commissioners informed the chairman of the board of police commissioners for the city of Brantford "that if Detective Slein would sign an agreement consenting to continue to pay his present assessment into the Toronto police benefit fund until he shall have attained his 55th year of age, or become incapacitated for public service by ill-health in the meantime, they would endeavour to make some arrangement under which Detective Slein might hold the position of chief constable of Brantford," but plaintiff submits that he was not obliged to accept this onerous condition to obtain what he was entitled to as of right.

W. Johnston, for the applicants.

R. C. Clute, K.C., for plaintiff.

THE MASTER:—The real and substantial question would seem to be, under the concluding words of sec. 12 of the rules, whether the board of police commissioners have absolute discretion, such as is vested in an arbitrator or in the Judge of the Division Court, and can deal with each application to rank on the fund as they think best, without regard to the approval of the committee of the fund, which is elected by the police force.

(1) The objection to the last clause of paragraph 7 is not, in my opinion, well founded. It is nothing more than a statement of the effect of sec. 16 of the rules of the benefit fund, which are part of the evidence on this motion. This says: "All members of the force shall contribute 5 per cent. of the gross amount of their pay monthly towards the fund."

The plaintiff cannot at this stage be deprived of any aid that this provision may give him.