

## MUCH EVIDENCE ABOUT NOTICE TO HYDRO OFFICE

Difference as to Notification in New System Laundry Matter

COMMENT ON POWER OF COMMISSION

Evidence Completed and Court Adjourns to Consider Decision

Claims by employees of the New Brunswick Power Company that they had mailed the removal notice of the New System Laundry Ltd. to the Civic Power Commission and denials by members of the commission staff that any such notice had been received, featured yesterday afternoon's hearing of the case in which the commission is seeking an injunction to restrain the laundry from purchasing current from the Power Company, and for damages for loss of sale of current since the laundry changed over from the commission to the Power Company, before

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Mr. Justice White in the Chancery Court. The evidence for both sides was completed and decision will be rendered at a date to be announced later. Ronald A. McAvity, commercial manager for the New Brunswick Power Company, was the first witness called. He said that on Feb. 10 last, a contract between the New System Laundry Ltd. and the Power Company was entered into and a removal notice signed by the manager, Russell Holt, was addressed to the Hydro Commission, to Miss Coleman, a clerk in the Power Company's office and it was her duty to forward it to the Civic Commission.

SYSTEM ADOPTED. To Mr. Inche, witness said that the custom of one competitor notifying the other of a change in the service was adopted by the Power Company as a

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## OHIO FARMER FINDS MASTODON



Bones of two giant mastodons, who died in a fierce battle some 200 centuries ago, were uncovered on the farm of James W. Bailey, near Johnstown, O. H. R. Goodwin, registrar of the Ohio State Archaeological museum at Columbus, believes they were hairy mammoths. At the top is shown 12-year-old Ruth Edgerton holding one of the animal's tusks. Beside her is a photo of one of the huge skulls. Below Bailey (left) and Goodwin display bits of the animals' vertebrae.

result of its first having been adopted by the Hydro Commission. Mr. McAvity further stated that while he was chairman of the Civic Hydro Commission, the soliciting agent for hydro had been instructed by their superiors to take any business they could get away from the Power Company as the contracts of the latter company "were not worth the paper they were written on."

TO DR. BAXTER THE HYDRO COMMISSION. The witness gave this notice, which was addressed to the Hydro Commission, to Miss Coleman, a clerk in the Power Company's office and it was her duty to forward it to the Civic Commission.

MISS COLEMAN CALLED. Miss May Coleman, stenographer in the commercial department of the Power Company, was then called to the witness stand. She stated that she had been employed by the Power Company since April, 1926. She said that the typing of orders for installations and removals of gas and electric meters was part of her duties.

Witness testified that she had had the contract of February 10 between the laundry and the Power Company, in her possession. She said she typed the contract before it was signed. After signing, attached the order for installation of meters. She said she gave this to Mr. McAvity, who returned from the laundry premises.

Witness responded in the affirmative when Mr. Inche asked her if Mr. McAvity had given the removal notice signed by the New System, as brought in by Mr. McAvity's testimony. Miss Coleman said she put the removal notice in an envelope and addressed it to the Power Commission. When questioned by Mr. Inche regarding the procedure of mailing, as carried out by the Power Company, witness stated that sometimes letters were mailed by the office boy and sometimes by herself. When Mr. Inche asked the witness if the envelope in question was properly stamped, she replied that she had placed a two-cent stamp on it and placed it with the rest of the mail on her desk. Unless they are "ordinary" letters, all correspondence for the Power Commission is registered, witness testified. Removal notices are generally registered, witness continued.

Dr. Baxter suggested to witness that there was a possibility of letters, containing removal notices, not being registered. Witness said that this was possible. In answer to Dr. Baxter, Miss Coleman said that these notices were generally registered.

Dr. Baxter—"I suppose it would be possible to put a registered letter in the pile of 'ordinary' mail?" Witness—"It has happened."

Dr. Baxter—"With this letter in question you are not sure whether you attached sufficient postage or not?" Witness—"I am not sure."

OFFICE BOY TESTIFIES. This concluded Miss Coleman's testimony. Walter Wilson, office boy with the Power Company, was then sworn. He said it was his duty to attend to the mailing of letters.

Witness replied affirmatively when Premier Baxter asked if he was given receipts when he registered letters. When asked if he had looked in the registration receipt book to see if the letter in question was registered, witness replied that Miss Coleman had charge of the book and he did not know whether any one had looked up the receipt.

Miss Coleman was then asked if she had looked in the registration receipt book and said that she had but had found no receipt.

THE CHIEF CLERK. Fred Withers, chief clerk with the Power Company, was called to the stand. He said he had been employed by the company almost eight years and had been chief clerk for the last four. When Mr. Withers had been sworn, Mr. Inche stated that witness had prepared a list of the names of hundreds of people who, commonly, had been customers of the Power Company but had broken their contracts by going over to the Power Commission, and asked Judge White that this be allowed in the evidence. Dr. Baxter interrupted with the remark that "we will never get through this thing if this is taken into the evidence. If Mr. Inche's opinions are better than Your Honor's and mine, he will get a new trial and I think the Power Commission is able to stand the costs."

Mr. Inche retaliated with the charge

that Mr. Willet, accountant secretary of the commission, had testified Friday that the Power Commission was a losing proposition. (Mr. Willet, while on the witness stand at the Friday hearing, admitted that the Power Commission was at the present time operating at a loss but could show profits if 10,000,000 kilowatt hours were sold.) The statutes do not give the commission the power to sue. Dr. Baxter—"There is a suggestion, as the evidence shows, that the letter might have been forwarded by the Power Company as unregistered mail. I do not wish to reflect on the business conduct of the employees of the Power Company office. I think we should examine employees of the Power Commission office to find out whether or not we received the notice." The was done later in the afternoon.

## JUDGE QUOTES STATUTES

Judge White—"I'd like to draw your attention to the fact that this commission, assuming it to be a commission, is given power by the statutes to manage and control the distribution system (wires, poles, etc.) The statutes do not give the commission the power to sue." Dr. Baxter thereupon referred to section 66 of the Electric Power Act of 1923 and quoted as follows: "A commission may regulate and fix the price at which the power is to be sold by any municipal or commission thereof."

To hold it down, Dr. Baxter continued, "the New Brunswick Electric Power Commission can fix the price at which electric current is to be sold by any of these power commissions. It is absurd to say that the commission may not make contracts for current."

Judge White said that he himself had quoted section 94 and subsequently remarked that the question of the moment would appear to be whether any further conditions with Mr. McAvity were to be made.

Dr. Baxter, who left yesterday afternoon for Montreal on a business trip, from which he expects to return Thursday, then withdrew from the stand. Mr. Carter, an associate, took up the case of the Power Commission.

## R. A. WILLET RECALLED

R. A. Willet, accountant secretary of the Power Commission, was called upon to testify.

Mr. Carter—"Did you have a conversation with Mr. Holt, manager of the laundry, regarding the removal notice?"

Mr. Willet—"Yes. I had two conversations with Mr. Holt. In the first, I told Mr. Holt that we had not received the notice to date (March 6) and he replied that he would make inquiries at the Power Company office. Within a fortnight, I had a second conversation with Mr. Holt and he told me the Power Company did not seem to know what they had done with the notice."

Judge White ruled this last statement out of the evidence.

Mr. Carter—"Who did Mr. Holt mean by 'they'?" Mr. Inche objected but it was not sustained.

Mr. Willet—"Mr. Holt said he had spoken to Mr. McAvity about it." The witness replied in the negative when Mr. Carter asked him if he had spoken to Mr. McAvity about it.

Mr. Carter—"Mr. Holt has testified that he informed you that Mr. McAvity had sent the notice. Did he tell you that in the course of his conversation with you?"

Mr. Willet—"I do not think so. I cannot recall his telling me that."

When asked by Mr. Carter what postman delivered the mail at the Power Commission office, witness replied J. K. MacDonald. Witness said that he was at the Power Commission office between Feb. 6 and Feb. 13 and it was his custom to open the mail. He denied that he had at that time or since read a removal notice signed by the New System Laundry.

Mr. Carter—"Did you have any special reason to watch the mails closely between Feb. 6 and Feb. 13?"

WAS INFORMED, HE SAYS. Mr. Willet—"Yes. I had been informed by one of my employees that the New System was considering a change. I was most watchful for the removal notice and was so some time after Feb. 13."

## THE HYDRO ENGINEER

Barry Wilson, engineer with the Hydro Commission, was the next witness. In answer to Mr. Carter, he said that he was usually present at the office when the mail was delivered but did not open it unless Mr. Willet was absent. Witness stated he has not seen any removal notice signed by the laundry and had no knowledge of any such notice being received by the Commission.

Miss Winnifred Blair, clerk at the Power Commission office, testified that she sorted the mail when it arrived, putting the Commission letters on Mr. Willet's desk and distributing the private letters among the members of the staff. She said she did not open letters herself and knew of no removal notice received from the Power Company regarding the laundry contract.

She said, when speaking of the receiving of mail, that she but sorted the envelopes and would not know if a removal notice concerning the laundry was received.

## LETTER CARRIER HEARD

J. K. MacDonald, letter carrier, testified that he delivered the mail to the Power Commission. In answer to Mr. Inche, Mr. MacDonald said that, in only one instance, to his knowledge, had a letter, addressed to the Power Commission, been placed in the New

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## Social Notes of Interest

Mrs. Horace A. Porter was the hostess at an enjoyable bridge of eight tables at the Riverside Country Club on Monday afternoon. The fortunate prize winners were Miss Annie Puddington and Miss Katherine Bell. Afternoon tea was served in the sun porch, from a prettily appointed table which had for decoration gladioli, chrysanthemums and pink phlox. Mrs. D. P. Lewin presided over the tea cups. Among those present for bridge and at the tea hour were Mrs. H. W. Stetson, Mrs. John W. McKean, Mrs. George McA. Blizard, Mrs. George Cameron, Peterboro, Ont., Mrs. Stanley E. Elkin, Montreal, Mrs. F. M. Stevens, Montreal, Mrs. H. Atwater Smith, Mrs. George H. McCallum, Mrs. Gordon McDonald, Mrs. Harry Redfern Fraser, Mrs. Leonard Tilley, Mrs. Percy W. Thomson, Mrs. Malcolm Mackay, Mrs. G. Heber Vroom, Mrs. John Sayre, Mrs. W. A. Harrison, Mrs. Frederick W. Daniel, Mrs. Alexander Orr, Montreal, Mrs. Clifford McAvity, Mrs. T. McA. Stewart, Miss Katherine Bell, Miss Beatrice Penney, New York, Miss Mary Blizard, Miss Annie Puddington and Miss Frances Rollo Kerr.

Mrs. J. D. P. Lewin gave a delightfully arranged luncheon at her residence at Roxbury on Monday in honor of Mrs. Stanley E. Elkin, of Montreal, who has been her guest for a week. The dinner was given in the dining room like other parts of the house was profusely decorated with gladioli, sweet peas and daisies. In the dining room the tea table was artistically arranged and had for decorations bachelor's buttons and yellow poppies. Mrs. T. McAvity Stewart presided over the tea-cups and was assisted by Mrs. J. D. P. Lewin, Mrs. Alexander Orr and Mrs. Malcolm Mackay, Jr.

Mrs. Kenneth T. Creighton was the hostess at a very enjoyable bridge of five tables at her summer residence, Westfield, yesterday afternoon. The fortunate prize winners were Miss Maud Smith and Mrs. Percy Howard. At the tea hour the table was centred with golden glow and was presided over by Mrs. George A. Smith. Assisting with the delicious refreshments were Mrs. R. H. L. Skinner, Mrs. Arthur Rankine, Miss Jane Creighton and Miss Maud Smith.

Mrs. Stanley E. Elkin is leaving today for Sydney, C. B. B., where she will visit her parents, Mr. and Mrs. Fanjoy.

Miss Marie Salterio, daughter of Mrs. Florence Salterio, 156 King street east, is leaving today for Boston, where she will visit friends for a week. The fortunate prize winners were Miss Maud Smith and Mrs. Percy Howard. At the tea hour the table was centred with golden glow and was presided over by Mrs. George A. Smith. Assisting with the delicious refreshments were Mrs. R. H. L. Skinner, Mrs. Arthur Rankine, Miss Jane Creighton and Miss Maud Smith.

Mr. and Mrs. G. Bruce Burpee returned home on Monday from Bathurst, where they spent the week-end.

Mrs. W. G. Watson and daughter, Allison, of Sackville, are spending a week in the city.

Mr. Justice Walter H. Trueman, formerly of Saint John, now of the Supreme Court Bench of Manitoba, accompanied by E. H. Coleman, secretary of the Brunswick Power Commission's post office box.

Miss Sadie Stevens, clerk with Miss Blair at the Commission office, said that either she or Mr. Wilson received the mail if Miss Blair or Mr. Willet were away from the office. She said she did not open the mails. Witness testified that she had not seen the removal notice concerning the New System.

Adjournment for decision followed.

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Cake and Powder most housewives use both

Miss S. L. Pierce, who has been the guest of Mr. and Mrs. F. A. Young, Seelye street, for the past few weeks, returned to her home in Brookline, Mass.

Mrs. S. E. Wallace and grandson, C. F. Zehnder, of Nashville, Tenn., U. S. A., who have been visiting for the last month at the home of her brothers, Capt. F. G. Hawks and X. South.

P. Hawks, of "The Range" Queens county, arrived in the city Monday by motor, and left yesterday morning for Nova Scotia, to visit relatives there before leaving for their home in the South.