

Baltimore Morning Herald
January 30, 1901

Legal Wits Argue Law

Mayor-Council Fight Opens at Annapolis

Both Sides Lengthy

Major Venable's "Subterranean Plans" Described

Mayor Hayes' Doctrine

The "You-Tickle-Me-I'll-Tickle-You" Policy Attributed to Him

Annapolis, Md., Jan. 29.—For four hours today the Court of Appeals heard the arguments of the opposing counsel in the case of "Thomas G. Hayes, a taxpayer, vs. James P. Gorter, collector of Baltimore City; and James H. Smith, comptroller;" and after the clock hand had traveled from 11 to 3 one attorney for each side was yet unheard. In consequence the case will be continued tomorrow morning.

City Solicitor William Pinkney Whyte and Assistant City Solicitor Olin Bryan, for the mayor, and Mr. H. Arthur Stump and Major Richard M. Venable, for Messrs. Gorter and Smith—and incidentally for the councilmen—were the lawyers heard today. By mutual agreement the court gave each side four hours. Messrs. Whyte and Bryan consumed an hour and a half and Messrs. Stump and Venable two hours and a half.

Tomorrow Mr. Edgar H. Gans, for the mayor, and Mr. Bernard Carter, for the councilmen, will make the closing arguments. Major Venable, whose speech was cut short this afternoon by the adjournment of the court, will be given a few minutes to close tomorrow.

It was a document laden party that came down from Baltimore this morning. Major Venable carried a huge satchel of law books and records and Messrs. Bryan and Gans were similarly burdened. With them, as spectators and auditors, were Councilmen Gephart, Norris, Brown, Steinacker and L.H. Miller and Election Supervisor William F. Porter.

Ex-Governor Whyte Opened

City Solicitor Whyte, who made the opening argument, confined himself to a summary of the points at issue. He spoke for nearly an hour, and once or twice paid his respects, in a characteristic manner, to his opponents.

"When this council," he said, "desired a copy of the report upon the taxable basis—which should be submitted to it by the board of estimates, with the ordinance of estimates—Major Venable adopted the rather subterranean plan of applying to the board's clerk. The board knew

nothing of this, and its clerk had no authority to deliver the report. What would have been received by the council later, in proper form, was secured in a manner as circuitous as it was curious.”

Mr. Whyte devoted a large part of his time to an exposition of the charter.

“One of its main principles,” he said, “lies in the provision limiting the council’s power of expenditure. The preparation of the ordinance of estimates by the board of estimates and its advertisement is designed to keep the taxpayers informed regarding the handling of their money. If the council can amend and destroy the ordinance of estimates, we might as well go back to the ancient political doctrine of ‘you tickle me and I’ll tickle you.’ It will require all of the ingenuity of my friends upon the other side to prove to the court that the council’s amendments were in consonance with either the letter or the spirit of the charter.

“The mayor’s veto message, in which he deals with this subject, shows that he has the ability to deal with legal questions, however much he may lack the tact to deal with men. The power of the council is derived from the law and is limited by the law. It is not a congress or a legislature.

Points Involved

Mr. Bryan, who followed the ex-governor, spoke briefly. The points at issue, he said, could be reduced to three:

“Did the city council have the right to amend the ordinance of estimates?”

“Did the mayor violate the charter by sending his veto of the amendments to the first branch instead of to the second?”

“Had the council power to fix a tax rate without waiting for a report from the board of estimates?”

Mr. Stump followed the assistant city solicitor, and answered a number of the points in Ex-Governor Whyte’s argument.

“To return to the ancient doctrine of ‘you tickle me and I’ll tickle you,’” he said, “is no worse than to have a charter that permits the mayor to tickle himself all the time. If the ordinance of estimates originated in the board of estimates it should have been returned to the board. The mayor treated it as the offspring of the council in so far as to veto parts of it and return it to one of the branches.”

Major Venable

Major Venable, whose speech was still in progress when the court adjourned, made what is known among students of the drama as “the hit of the day.” More than once he pointed darts of humor caused the six judges to smile.

“Baltimore’s new charter,” he said, “is a good instrument. Since it has been in force there have been no scandals in city hall. The taxpayers’ money has been carefully husbanded and the reign of ‘soft snaps’ has come to an end. Someone has said the best proof of the truth of Christianity is the fact that it has stood 1,800 years of preaching. Similarly the proof of the charter is seen in the fact that it has stood a year of the present administration.”

In speaking of the charter, Major Venable delivered a sly dig at the mayor.

“It is easy to place the credit for its merits and defects. Its authorship, I believe, has never been very assiduously concealed under a bushel.”

On the bench were Chief Judge McSherry and Associates Judges Briscoe, Schmucker, Pearce, Page and Jones. The opposing counsel will finish their arguments today, and a decision is expected within two weeks.