

Clarenville trial starts

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In the early morning hours of last Aug. 7 a "green haze" filled the air around the M.V. Clarenville as the former floating restaurant sank in flames, Owen Sound Fire Chief Gord Woods told Owen Sound provincial court Monday.

Then, on Aug. 8, fire trucks and firefighters were "kind of leap-frogging each other" to keep up with a series of garbage fires downtown that night, fire captain Doug Gibbons said later.

Woods and Gibbons testified Monday during the first day of a trial of the 23-year-old man charged with setting the Clarenville ablaze.

Gordon Mark Sutton, of no fixed address, also faces five other arson charges for fires set behind businesses on 9th St. E. and 2nd Ave. E. that would likely have spread to nearby buildings.

The Clarenville was closed at the time of the fire after former owners Hank and Thelma Buitendyk declared bankruptcy last May and moved away.

Only a few weeks ago the last of the once-proud wooden vessel, built in Newfoundland more than 45 years ago, was lifted from the harbor floor.

Sutton's trial is expected to take all week. A major issue will be the admissibility of statements he made to police following his arrest last September.

Crown Attorney Ken Rae referred to them as confessions, but defence attorney David Midanik of Toronto objected to the term. A voir dire

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Arson

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essentially a hearing within a trial to decide if the court will accept certain evidence, is expected to begin today.

Judge Laing is also expected to rule on a motion by Midanik to quash the five garbage fire charges on the grounds Sutton's constitutional right to a complete defence has been violated.

Midanik said the investigation by city police and fire officials was inadequate considering the seriousness of the charges.

He said it should have been routine procedure for local officials to cordon off the fire scenes and collect scientific evidence the fires could have spread to buildings. The lack of that evidence ties the hands of the defence, Midanik argued.

The Crown's case relied on the memory and eyewitness testimony of Gibbons.

The Charter of Rights demands more, Midanik argued, "if the state wants to take someone's rights away."

Gibbons had testified a fire behind Chevy's restaurant on 9th St. E. had scorched a door frame, and one behind Kresge's on 2nd Ave. E. had ignited paint on a steel shipping door.

There are also apartments above the businesses, court was told.

While his motion to quash some of the charges didn't apply to the Clarenville fire, Midanik also attacked that investigation. During cross-examination of Woods, he suggested a thorough underwater examination of the wreck should have been done to find out where and how the fire started.

That mystery still hasn't been solved. Woods testified the best that could be determined was that the fire started in the middle of the ship. He said his investigation included climbing aboard the Clarenville's hulk as it was temporarily lifted off the floor of the harbor by five cranes last fall. The ship sank again when its water-logged weight proved too much for the cranes, and a cable snapped.

The "green haze" which surrounded the Clarenville during the fire was caused by a gas created when polyurethane and styrofoam insulation burn, Woods testified.

It was a hard fire to fight. Woods said firefighters stopped pouring water into the vessel when it was obvious it was going to sink.

When the Clarenville hit the bottom diesel and fuel oil tanks aboard broke and "she lit up like a Christmas tree," he said.

"It was impossible to get right into the belly of the boat," said Gibbons, describing the intense smoke and heat of the fire firefighters began fighting about 3:45 a.m. There was an enormous amount of smoke . . . the mid-section was completely engulfed," Gibbons said.

Obvious bad feelings between Rae and Midanik surfaced early in Monday's proceedings as the two men sniped back and forth. Judge Laing finally lost patience with them both.

"I do not intend to sit here and listen to shots one after another," Judge Laing said, threatening to walk out on them. "I insist upon courtesy."

Sutton has been in custody since his arrest last September, including several months at the Penetanguishene Mental Health Centre where he was sent following his initial court appearance last October.

He has actually been charged with the same offences twice, after the first set of charges lapsed when he wasn't brought back to court within 30 days.

In February he was told Sutton was fit to stand trial, and the charges were laid again, Rae said.

The trial continues.