The Toronto World

A Morning Newspaper Published Every Day in the Year.

The World Newspaper Co. of Toronto, Limited. (Inc. 1902. 40 West Richmond-street.

HAMILTON'S PLIGHT.

Once more Mayor McLaren of Hamilton has played the Cataract Power Co.'s game by his obstructive tactics in connection with the proposed contract with the hydro-electric power commission. The people have three times voted to make a contract with the hydro-electric commission, and the city council led by the mayor has refused to comply with the popular demand. This is all the more deplorable conduct on the part of a public man like Mayor McLaren, when it is remembered that he was elected upon this very issue. He assured The World's representative last December of his loyalty to the people and the hydro-power policy, and gained the endorsement of The World as a public ownership candidate by that means. His unscrupulous repudiation of those pledges is unfortunately not a solitary instance of the influence exerted by the Cataract Power Company in Hamilton. Nor are dereliction of duty of this kind confined to Hamilton when, as at North Toronto, elected representatives audaciously scout the popular will for reasons of their own.

But whatever the influences to which elected representatives may succumb the people know what they want, and will continue to demand it. Hamilton's is a particularly flagrant case. After three expressions of opinion and the election of a mayor who represented himself as willing to carry out the people's policy, only to turn round and betray it, Hamilton finds itself under the necessity of beginning all over again its search for a trustworthy mayor and council.

GROWING DEMOCRATIC SPIRIT.

Senator Ross dwelt with apparent satisfaction at the Canadian Club on Monday evening on the more democratic tendency of the Australian constitution as compared with that of Canada. He especially emphasized the sovereignty of the province. "No court should be allowed to veto the legislation of a province," was an assertion which met with applause. It was a blot on Canadian legislation that the federal government had anything to do with education, was another applauded sentiment. The fact that men and women vote on a parity in Australia and New Zealand, said the senator, also showed a disposition to trust the common people. This recognition of the approach of woman's suffrage is duly significant, and the colonial editor of The London Times, who heard the senator's address, will no doubt communicate the oversea sentiment to the homeland.

When the suffrage bill comes up in the legislature next session, the government will have less excuse than formerly for postponing its consideration. It is possible, if Senator Ross' remarks may be accepted as a token, that the Liberal party will adopt adult suffrage as a plank in its platform. It must at any rate receive consideration at both of the forthcoming conventions.

SOME HAMILTON COLONELS.

Colonel the Honorable John Hendrie, M.L.A., of Hamilton, doesn't seem to get much support in the municipal council of that city for the Whitney-Hendrie hydro-electric power proposition. The gallant colonel has been persistent in his advocacy of the policy; notwithstanding these strenuous efforts of his, however, Colonel McLaren, the Liberal and pro-Gibson-Cataract mayor of the city, has unhorsed him several times. Senator Jaffray will be putting Colonel Hendrie's picture in The Globe as a slight mark of appreciation.

Colonel John Morrison Gibson, late of Hamilton, is watching these proceedings in Hamilton from the end of a wire in Toronto.

Colonel Sir James Pliny Whitney is also looking on, but not at the end of a Cataract wire.

FALSE ECONOMY.

It is announced that Mr. Arthur H. Frankland is leaving the assessment commissioner's office in the city hall to accept a position with a prominent real estate firm. Mr. Frankland was recommended some time ago by Assessment Commissioner Forman for the post of assessment commissioner at a salary of $2100. In accordance with the niggardly traditions of the city hall, the recommendation was turned down, and Mr. Frankland, with his twelve years' experience and intimacy with city hall affairs, is set free to use his knowledge against the city instead of for it. A lot of bright men have served the city until service became too great a sacrifice, and their talents were properly recognized elsewhere. R. J. Fleming, W. T. White, Cecil B. Smith, H. L. Drayton, W. C. Chisholm, are a few names that occur at once in this connection. Mr. Frankland joins this list, and no doubt has a fine career ahead of him.

The city council that sits in judgment on such men and rejects their services for something cheaper, sets a standard by which the voters ought to be able to measure it.

TAMMANY WINS AGAIN.

New York, by a large majority, has again bent itself to the yoke of Tammany. This, too, notwithstanding full exposure of the methods that have made Tammany the synonym for wholesale political fraud and corruption, and of the heavy toll levied upon the people both directly and indirectly. Tammany, if it has not the harmlessness of the dove, has certainly more than its full share of the wisdom of the serpent. When threatening clouds become too ominous it can always go outside its charmed circle and prevail upon some prominent man of reputed independence and integrity to carry its standard and revive the hope in alienated Democrats that the city's administration will take a turn.

Divided counsels among its opponents have helped Tammany to maintain its grip on New York. Otto T. Bannard, the Fusion candidate, had a good record as a successful business man of principle and ability and conscious for the public welfare. Had it been a straight battle between Tammany and the Fusionists, Bannard might have won. But the appearance of William Randolph Hearst introduced a disturbing element which went far to weaken the hands of those who wanted to break the city's chains. Judge Gaynor professed that, tho Tammany's nominee, he was in no way Tammany's man. This is not the first time a candidate of repute has professed himself able to touch pitch without defilement. The profession has come to nothing hitherto, and it is unlikely that Judge Gaynor will better previous experience.

MUSICAL EXAMINATIONS.

Editor World: In reply to Enquirer's search for light on this subject, it may be said that while the Conservatory and the College of Music claim to be affiliated with the University of Toronto, in real fact they are as much affiliated with the university as we of this globe are affiliated with the ring of Saturn. The university allows them to use this reference as to standing, but gains nothing from these institutions, not even loyalty to its own examinations. The university holds its examinations in music, both theoretical and practical, but neither of the affiliated institutions officially send their pupils, only a few going at the instance of, here and there, one of its teachers. They hold their own examinations, and their own teachers do most of the examining. The standards are not the same, and here a funny thing comes to light. The board of music studies of the university or whatever the body may be called, that sets the curricula, determines the standard and chooses the examiners, is largely composed of teachers in one of these two institutions, who may be expected to retain their loyalty to the concern which engages them, yet the "highbrows" in the park sit complacently by and let the university musical policy be outlined by the teachers in schools which send no pupils—or at best, only a few—to the university exams.

Enquirer asks where does the university come in? Ans.—It don't come in.

Musicus.

Enlarging Priest's Residence.

Very extensive alterations are to be made to the R. C. Priest's Presbytery at Trenton, Ont., for which Architects Ellis and Connery, Toronto, are preparing plans.

The priest's present residence is a six-roomed brick structure, and this is to be enlarged more than double, displaying a very elaborate exterior and interior.

Jesuit Fathers in Earthquake Business

CLEVELAND, O., Nov. 2.—A chain of stations across the country operated under the direction of the Jesuit Fathers of America, for the purpose of making seismic observations and records, has been established. Headquarters are in Cleveland.

AT OSGOODE HALL.

ANNOUNCEMENTS.

Motions set down for single court for Wednesday, 3rd inst., at 10 a.m.:

1. Pierce v. Waldman.
2. Wilson v. Sons of England.
3. Turner v. Stoddart.
4. Cummings v. Barnet.

Peremptory list for divisional court for Wednesday, 3rd inst., at 11 a.m.:

1. Mackenzie v. Maple Mountain.
2. Brennan v. Cameron.
3. Parrot v. McLean.
4. Re Spurr and Penny.
5. Jewell v. Broad.

Non-Jury Assize Court.

Peremptory list for non-jury assize court Wednesday, Nov. 3, at city hall, at 10.30 a.m.:

145. Leckie v. Marshall.
147. Mickleboro v. Strathy.
111. Worts v. Eaton.
90. Willis v. Colville.

Master's Chambers.

Before Cartwright, K.C., Master.

Hunter v. J. Rausbury—Towers (Heighington), for plaintiff, moved on consent for order dismissing action and vacating certificate of lis pendens with costs payable by plaintiff. Order made.

Spader v. Sutherland—Cavell (Millar F. & H.), for defendant, moved on consent for an order dismissing action without costs.

Drouillard v. Drouillard—F. McCarthy, for defendant, moved for an order for further examination of plaintiff. F. L. Bastedo, for plaintiff, contra. Reserved.

Penman v. Douglas—J. R. Code, for defendant, moved to change venue from Toronto to Ottawa. Bangs (Arnoldi & G), for plaintiff, contra. Adjourned for a week to allow of cross-examination of defendant on his affidavit.

Hunter v. J. A. Rausbury—Towers (Heighington) moved on consent for order dismissing action with costs, payable by plaintiff to defendant. Order made.

Clarkson v. Hutchinson — Raney (Mills & Co), for plaintiff, moved for an order allowing substitutional service on agent of defendant, who is at present abroad. Order made. Time for appearance extended until 4th December.

Tully v. Trick—T. N. Phelan, for defendant, moved to set aside a default judgment. H. S. Rose, K.C., for plaintiff, contra. Order made on terms. Pleadings to stand and notice of trial to be given for Whitby sittings on 8th instant, with leave to defendant to move to postpone. Costs to plaintiff in any event, but if postponement granted then costs forthwith.

Semon v. Young—F. S. Brown for plaintiff, on motion to compel defendant to answer certain questions. T. N. Phelan, for defendant, contra. Judgment: As to certain questions to answer them might be prejudicial to defendant in his business. They therefore need not be answered, as in view of what plaintiff admits and of the ground of the defence, the alleged misconduct of the plaintiff, they are not relevant to the issue. The motion is dismissed with costs to the defendant in the cause.

Judge's Chambers.

Before Riddell, J.

Re Donald Campbell—F. W. Harcourt, K.C., for infants, moved for an order for payment out of certain moneys in court for purpose of building a house. To be spoken to again.

Re Mary McCoy Estate—Eric Armour, for Robert McCoy, executor, moved for administration order. D. L. McCarthy, K.C., for beneficiary, contra. Order made staying proceedings in surrogate court. Issue directed, to be tried at the next non-jury sittings at Belleville. Costs reserved until final disposition.

Re Mary A. Bine—G. G. Plaxton, for Eva Crawford, a grandchild, moved for an order for payment out of the residue in court to applicant's credit. No one contra. Matter to be referred to official guardian and to be spoken to again.

Re Jessie Wallace—F. W. Harcourt, K.C., for administrator, moved for an order for payment into court of certain moneys to the credit of the heirs of Jessie Wallace, other than the widow. No one contra. Order made, all interested parties to be notified by registered letter.

Re Joseph Porter—F. W. Harcourt, K.C., for all parties entitled, moved for an order, for distribution of certain moneys in court. No one contra. Order made. Certain debts to be paid and infant's share to remain in court.

Colonial Investment and Loan v. Spooner—A. B. Cunningham (Kingston), for defendants. A. M. Macdonell, K.C., for plaintiff, contra. Judgment: An appeal from the judgment clerk, on the question of taking the accounts in a mortgage action. I am of opinion that the amount found due is right and that this appeal must be dismissed with costs or a chamber motion. These costs may at the option of the plaintiffs be added to the mortgage debt.

Tinsley v. St. Clair Tunnel—F. Aylesworth, for mother, moved for an order for payment out of court of certain moneys for maintenance. F. W. Harcourt, K.C., for infant. Order made for payment out of court of $200 out of shares of two elder sons and the balance in equal parts from the shares of the two younger sons.

The King v. Lee Hing—L. F. Heyd, K.C., for defendant, moved for an order varying the bail order by allowing deposit of marked cheque for $2000 in favor of the crown attorney instead of providing two sureties of $1500 each. No one contra. Order made.

Re John Deyell, lunacy—R. J. McLaughlin, K.C., for petitioner, on motion to declare lunacy, asked enlargement. Enlarged one week.

Synis v. McGregor—H. E. Rose, K.C., for plaintiff, moved for order by way of appeal from the order of the master in chambers dismissing motion for judgment for possession on default in a mortgage action. L. F. Heyd, K.C., for defendant, contra. Enlarged until Thursday, 4th inst., at 10 a.m.

Re Brundage—J. M. Ferguson, for petitioner, moved for order confirming order of Oct. 15, 1909. F. W. Harcourt, K.C., for infant. Order made.

Re Cuban Realty Co.—J. A. Macintosh, for petitioner, moved for order to wind up company. W. J. McWhinney, K.C., and J. F. Hollis, for the company, contra. W. E. Middleton, K.C., for the Bank of B. N. A., opposed the application. To be spoken to again on 5th inst.

Leckie v. Marshall—G. Bell, K.C., for defendant, moved for order for issue of a subpoena duces tecum and ad test directed to certain persons in Montreal to appear at trial in Toronto and produce certain papers. Order made.

Single Court.

Before Teetzel, J.

Saskatchewan Land and Homestead Co. v. Leadlay—G. Kappele, K.C., and C. Kappele, for the Leadlays and A. J. R. Snow, K.C., for the Moores, on appeal from the certificates of the master-in-ordinary. A. B. Cunningham (Kingston), for plaintiffs, contra. Argument of these appeals resumed from yesterday and judgment given dismissing first appeal as to items 4, 5, 6, 7, 8, 9, 12, 13, 14 and 15 and reserving judgment as to items 10, 11 and 17. On the second appeal the amount allowed for cordwood is reduced to $800, or at the rate of $160 per year for five years, and as to remaining points judgment reserved.

Trial Court.

Before Falconbridge, C.J.

Burch v. Flummerfelt—A. C. Kingstone, for plaintiffs. M. J. McCarron contra. Judgment: I allowed the declaration of Johnson Burch to be filed as part of the history of the making of the conveyance relied upon by defendant, but it is not evidence of the facts therein stated and I entirely disregard it. It is quite clear that the money paid for the land was the money bequeathed to Johnson Burch by his mother's will. Johnson's habits were such that his mother provided that all legacies to him should be invested or applied to the purchase of land, to be held in trust by her executors during his natural life, and to be equally divided among his children. The means adopted to carry out the wishes of the testatrix consisted in taking a deed from the vendor of the lot in question to the "lawful children or heirs of Johnson Burch." The introduction of the word "children" renders unnecessary the consideration of whether there is any infirmity in the grant by reason of the absence of a particular estate. The statute R.S.C., c. 119, sec. 2, would no doubt suffice to cure the objection in any event. Then as to the contention that J. B. had acquired a title by length of possession, the answer to this contention is that J. B. knew of the will and must be assumed to have taken the lands under trusts of same, and his possession ought not, under the circumstances, to be treated as adverse. The case is a pretty hard one on defendant, who has no doubt expended a good deal of money for and on behalf of J. B. under the expectation of getting the property. The plaintiffs offered in open court to pay the defendant the funeral expenses, amounting to $60 (including the minister's fee) paid by her, and this offer I shall expect them to carry out. There will be judgment for plaintiffs for possession of the lands and setting aside the conveyance from J. B. to the defendant, and $1 for mesne profits without costs. Thirty days' stay.

Before Riddell, J.

Whicher v. Nott Trust Co.—J. H. Mors, K.C., and C. A. Moss, for plaintiff. A. W. Anglin, K.C., and R. C. H. Cassels, for defendant. Judgment: The Dominion Copper Co., a mining company operating in British Columbia, issued, June 1, 1905, to the face value of $1,000,000. These were secured by mortgage to defendants of same date, and the plaintiff became the holder of $13,000 thereof. In May, 1907, defendant company advertised for offerings of such bonds for redemption. Plaintiff offered his at 82. Defendants redeemed other bonds, but not those of the plaintiff. On Nov. 6, 1908, plaintiff sued, claiming in the first instance breach of trust by the defendants as trustees, and by an amendment, specific performance of the contract, which he says had been made, or for damages in lieu thereof. No charge of collusion, fraud or other impropriety is made against the defendants, nor could any such be made, but it is claimed that they have misinterpreted their deed of trust, and are liable as for a breach of their trust. I think the plaintiff fails in contract. If he be held entitled to recover in contract at all, I find that the market price of the bonds at the time of the breach was 75—his damages will then be $700. The same consideration will also prevent him from recovering as cestui que trust. The defendants have in the premises acted honestly and reasonably and ought fairly to be excused for the treach of trust, if there was one. I am also of the opinion that the other provisions in the trust deed protect the defendants, but I do not consider it necessary to pass upon the question. The action will be dismissed with costs—30 days' say.

Divisional Court.

Before Falconbridge, C.J.; Britton, J.; Sutherland, J.

Young v. Flaherty—I. F. Hellmuth, K.C., for defendant, on appeal from judgment of Latchford, J., dated June 1, 1909. R. McKay, for plaintiff, contra. Appeal argued yesterday. Judgment (V.V.): Appeal dismissed with costs.

Re Cartwright and Napanee—G. Bell, K.C., for Sir R. Cartwright, on appeal from judgment of Clute, J., dated June 28, 1909, and on motion to adduce further evidence to be used on appeal. C. A. Masten, K.C., and W. S. Herrington, K.C., for the town, contra. Judgment (V.V.): Motion allowed; applicant permitted to put in further evidence. Examination of the mayor, clerk and treasurer only in meantime, to be before the county judge, and others may afterwards be examined if necessary by leave of a judge of this court. Examination not to go back of the business of 1906. All questions of costs reserved.

Township of Hay v. Bissonnette—W. Proudfoot, K.C., for defendant, appealed from the judgment of Clute, J., dated June 22, 1909. M. G. Cameron, K.C., for plaintiff, contra. The action is to have it declared that Bissonette-avenue and Archambault-street, opened and established as a highway by a by-law of plaintiffs, are public highways in the Township of Hay, and to have the defendant, Bissonnette, restrained from occupying or obstructing the same, and that he may be ordered to go out of possession and occupation of same, and to remove all obstructions therefrom. At the trial judgment was given for plaintiffs as asked and $10 for damages, with costs of action. Defendant's appeal therefrom argued and judgment reserved.

Forrest v. Turnbull—G. G. McPherson, K.C., for plaintiff, appealed from the judgment of MacMahon, J., dated July 12, 1909. R. S. Robertson (Stratford), for defendant, contra. This was an action by a brother against a sister, to recover 50 acres of land. At the trial the action was dismissed on the ground that where persons have agreed to a divisional line between lands and have lived up to it for 10 years, even without a fence, such division would be conclusive evidence of ownership.

LAW IS UNCONSTITUTIONAL BECAUSE NEGROES ARE BARRED.

JACKSON, Miss., Nov. 2.—Because no provision is made for the education of negro children, the law for establishing county agricultural high schools was declared unconstitutional by the state supreme court to-day. The law specially states that the schools are to be for "white youth."

Ward One Conservatives.

The annual election of officers in Ward one, Liberal-Conservative Association, will be held this evening in Oddfellows' Hall, Broadview-avenue.

Left $30,000 Estate.

An estate valued at over $30,000, $20,000 being in real estate, and $7,000 in cash, was left by Julia A. Conlin, who died intestate on Oct. 4. The property goes to her daughter Rose Elizabeth.

BRANTFORD'S COLLEGIATE

Toronto Architects Design School Building Involving New Features.

Work of excavating for the basement of the new Brantford Collegiate Institute has just begun, and it is intended that the immense building will be completed for occupation by October of next year.

The design of the building is quite a departure in institutional buildings for Ontario. It was evolved in an architects' competition open to the province, in which Chapman and McGiffin, Toronto, carried away the prize. The distinctive features were inspired from data compiled from the report of a commission of experts employed by the States of Massachusetts, Missouri and New York to improve school buildings. In addition, the requirements of the Ontario department of education have been fully lived up to. Special attention has been given to chemical, physical and biological laboratories, a large art room, domestic science room, manual training room, gymnasium and assembly room. Also the most modern approved methods of lighting, heating and ventilating have been adhered to. The light areas have been arranged so that the light comes from the left side of each room.

The building covers an area of 200 feet by 75 feet, in the form of an E. It will cost about $85,009.

The good fortune of the Temiskaming and Northern-Ontario Railway in building into a wilderness and discovering Cobalt has been repeated in a way by the Grand Trunk Pacific. In building the Melville-Regina line they succeeded in reaching a point some 20 miles south of Melville, where they tapped one farm which shipped an even 100,000 bushels of wheat. The line will be continued and completed to the Saskatchewan capital in 1910.

Mr. J. W. Stewart of Foley, Welsh & Stewart, contractors on the Grand Trunk Pacific Railway, returned to Edmonton from Yellowhead Pass. Mr. Stewart reports no snow in the pass, with Indian summer weather. Instead of being a narrow canyon, Yellowhead Pass proper is an open valley, some two miles wide, and the railway builder predicts that in the near future wheat will be growing and ripening along the line in the pass. This comes as a surprise to those who have been thinking of this pass as a deep gorge at the foot of Mount Robson, the highest mountain in Canada.

Winnipeg Fire Department Criticized.

WINNIPEG, Nov. 2.—(Special.)—The Free Press editorially demands a searching investigation into the work of the fire department, and the reasons why, in the face of the vast outlay for a high pressure system and new and up-to-date apparatus, the department failed in broad daylight Saturday to scope with a fire that was discovered in its incipent stages.