The Toronto World

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FRIDAY MORNING, DEC. 9, 1910.

MAYOR AND MOB.

Mayor Geary is certainly being cruelly treated. Some illnatured people have already suggested that he made an incendiary speech at the Massey Music Hall on Wednesday evening which led to the subsequent riot and destruction of street car property. All that Mayor Geary said was this:

"If the people were not so docile there would have been breaches of the peace before this. In their exasperation the people may be guilty of breaches of the peace, which I would rather see not permitted.

"I want to know whether the people are prepared to lie down and stand for this thing indefinitely."

It is with righteous indignation that Mayor Geary may demand what incentive to riot there is in such words. When he said he wanted to know whether the people would lie down or stand, how could a young man like the mayor, inexperienced with the temper of the mob, be expected to anticipate that the answer would be given in broken heads and fractured windows? He distinctly said he would rather not see such breaches of the peace. Thoughtless persons, or perhaps some malicious people with intent to embarrass him, proceeded to let him see what he said he would rather not see.

Mayor Geary will receive much sympathy in this attempt to hang a riot on his expression of surprise that there had not been breaches of peace before. Nor could anyone imagine that calling the people docile would stir them up to such acts of violence as followed the expression of his desire to know whether they would lie down or stand.

TOLSTOI AND RIGHTEOUSNESS.

A good deal of interest ought to be taken in the memorial meeting to be held on Sunday afternoon in commemoration of Tolstoi. For twenty-five years past the great Russian has been one of the most impressive spiritual forces of the world. It does not matter in the least whether we agree with all his views or not, his effort lay with the struggle that makes for righteousness. Righteousness, in more familiar language, and in more accurate language for modern ears, is merely justice. Justice to the least and the lowly as well as to the high and mighty is the essence of his philosophy, whatever ramifications his doctrines may extend to. A man's experience and environment counts for much in his philosophy, and if Tolstoi was more radical than the average Canadian cares to be, it must not be forgotten that he lived in a land in which the average Canadian would not care to live.

PUBLIC SERVICE PROBLEM.

Public service companies provide the immediate problem before Canada and the United States. The conflict between private and public interest which is never absent, tho it may be latent, always sooner or later results in an outbreak which invites popular attention. But the point on which the public eye should be focused is not quite that which the public service company desires to make. Its idea is that the more citizens resent the immediate service, the more willing they will become to extend the franchise on promise of relief. This lure will not captivate Toronto. The city has already had experiences which have amply demonstrated that no company dominated by the notion of private advantage can ever pass beyond the motive of company profit.

Communal ownership and operation of public services and utilities has made rapid advances in popular favor in recent years. Incontrovertible as the principle is, judged by public standards, it would not have been welcomed with such general acclaim had it not been for the policy pursued by the local public service companies. The point need not be enlarged since it is patent to every citizen. There is only one way to obtain the quality of service which a modern city needs, and that is thru public ownership. Toronto suffers in its transportation simply because the service is starved that profits may be increased. Remove private interest and the problem solves itself.

HOW TO BUY THE STREET RAILWAY.

Mr. Maclean's suggestion that the quick way for the city to get the street railway is to buy the controlling shares.

But because it is effective it may be tried. It is up to the mayor and the board of control to look into it and to at least consult a firm of brokers.

The control of the Montreal Street Railway was got in a few days within the last three months.

Acquirement by arbitration is a long and expensive process.

Read Mr. Maclean's interview, reprinted this morning, from last night's News.

A LESSON FOR THE POLICE.

One thing is painfully evident: somehow or other the police department fell down on its job Wednesday night.

Chief Grasett admits there was a lack of men; he also says that this lack of men was not because of the new hours of duty being now "successfully" tried out, in which opinion he differs from that of the man on the beat. However, the fact remains that a disorderly crowd was allowed to congregate at the city's busiest corner to hurl stones, smash car windows, and imperil the safety of the passengers for more than an hour, while other crowds, offshoots, repeated the outrages at other places. No one will dispute the courage or willingness of the police, but they seemed helpless because of lack of direction. Chief Grasett didn't show up; and his deputy and inspectors appeared to make no determined effort to clear the streets. Probably but one in a hundred in the crowd wanted to, or did, throw a stone, but the other 99 loitered around to see "the fun," and provided the necessary concealment for the rowdy bent on mischief. It was not a vicious crowd, and should have yielded to persistent pressure from the police, who, instead of keeping the crowd on the move, let it hang about and swarm back continually to the intersections. To see a stray constable on the sidewalks gently imploring "Now, pass along, gents," with the crash of glass constantly about him, was a joke, and taken as such. A few mounted policemen would have rendered valuable aid, but they were not available.

It is not the first time that the police department, as an organization, has shown incapacity in handling large disorderly crowds; it ought to be the last.

WESTERN HOSPITAL BYLAW.

The Western Hospital authorities, in respect of the civic bylaw for $50,000 for the hospital fund, say: "The hospital asks this money from the people to be used for the poor of the city. There are very many, who when sick or injured can only be cared for properly in some institution. It is to provide some of the capital required for this accommodation that the grant is asked from the people. The amount is a very small one, and yet it will enable the management of the Western Hospital to supply fifty additional beds for city order and city rate patients. These are the ones that have first claims upon all the hospitals, as those who are in better circumstances can be treated at home in most instances. Should the people vote this sum, it will be the constant effort of the Western Hospital to show that the confidence of the people has not been misplaced."

The Christmas Stamp

The class of patients that are to be helped by the general sale of the little Christmas stamp was very nicely reflected in an address delivered by Dr. N. A. Powell, in June last, when an excursion party visited the Muskoka institutions. He said: "I might read to you my letters, received from week to week, at the hospital, the general tenor would be something like this: 'My husband is home; he is well and strong, and is working for me and our babes. I have no words to thank the Muskoka institution for what it has done for him and for us.' These are the best dividends anyone can have, and are the dividends that are being paid to those aiding in the work at Muskoka."

It is that there may be still larger accommodation for such patients that the Christmas stamp proposition is being pushed to-day. The more stamps sold, the more money to care for those in residence, and money to help increase the accommodation.

New Women's Canadian Club.

CALGARY, Dec. 8.—A Women's Canadian Club is being formed in Calgary to arouse interest in public questions among women of the city, and to prepare them for affiliation with the older Canadian clubs.

Editor Will Contest Riding.

COBALT, Dec. 8.—(Special.)—A. W. Roebuck, editor of the Timiskaming Herald of New Liskeard was selected at the Liberal convention to-day as the party's candidate in this riding at the next election to the legislature.

Porch Climbers in Detroit.

DETROIT, Dec. 8.—Porch climbers last night entered the residence of Mrs. J. Elizabeth Buhl, widow of the late Theodore D. Buhl, 1610 Jefferson-ave., while the family were at dinner, and escaped with $8000 worth of jewelry and diamonds.

License Transferred.

The license commissioners yesterday approved the transfer of the shop license at 433 Yonge-street from J. C. Moor to George R. Barfett. The consideration for the sale was $22,000.

(From Last Night's News).

TORONTO SHOULD BUY OUT
(Civic Bonds in Payment for Shares)
STREET RAILWAY CONTROL

Mr. W. F. Maclean Suggests This Method of Acquiring Franchise at Once—A Business Proposition and How It Could Be Carried Out.

W. F. Maclean's Suggestion

The city should get forthwith an order-in-council from the Ontario Government guaranteeing legislation at the coming session authorizing Toronto to buy shares in the Toronto Railway; authorizing also the issue of the city bonds, say up to ten millions, for that purpose; the bonds to be sold as needed; or better still given direct for shares on an agreed basis.

Then ask a stock broker of capital and capacity to go out and see what he can get the controlling shares for. The minority shareholders could either get the same figure or hold on and take their chances. They'd sell quick.

The city could get possession in this way in a fortnight after the order-in-council is passed.

which appeared in The News this morning in reference to the proposal he had made at Massey Hall last evening that the city should make over the street railway by a purchase of its shares, Mr. W. F. Maclean, M. P., said:

"For several years now I have suggested that the City of Toronto be given the right to buy shares in any public franchise within its bounds, and con urrently therewith, the right to raise money by the issue of city bonds for the purpose. Or to put it in a still more simple way, that the city be in a position to give the owners of shares in these propositions city bonds therefor. If this were done there would be no need to raise money by selling the bonds—they'd be as good as cash and would command a ready sale if the receiver cared to dispose of them.

Corporations Put on Gum Shoes.

How is it that others acquire a franchise of a company? In nearly every case by purchase of stock. The Canadian Pacific, the Grand Trunk, and Mackenzie & Mann, of the Canadian Northern, are buying the controlling shares in corporations every day. They have the right to do this by law. The Dominion Government is free to do anything of this kind and so is the Ontario Government, but a municipality is absolutely prohibited. Banks can buy out other banks under the present law and anyone of them when they wishto go after a property that is controlled by a corporation ninety times out of a hundred can have it by means of purchase of shares. They don't expropriate—it's expensive. They put on gum shoes and go out to buy the controlling shares.

"Before I apply my principle to the condition of affairs in Toronto, let me say that Toronto has now the right to buy shares in the Consumers' Gas Company and could buy the controlling shares if she wished. Now what can Toronto do under the present circumstances? It should by legislation or by an order-in-council of the Whitney Government be free to go to a stock broker and say to him, 'What can you get control of the shares of the Toronto Railway Company for?'

Rodolphe Forget Might Do It.

"Say they are quoted to-day at 120. I believe that Rodolphe Forget of Montreal, where most of the shares are held, could deliver this control to Toronto at 140 a share, or perhaps less or perhaps a little more. He would either do the work on commission or he would do it as a speculation. So would a brokerage firm like Cawthra Mulock & Co., of this city, or Osler & Hammond and other like firms. Furthermore, the shareholders of the Toronto Railway Company in Montreal have bought some for investment, many for a rise, and if they saw five or seven points in the proposition they would rush to sell; and after what they see is the experience of the Electric Light people of London, and what is likely to be the experience of the Toronto Electric Light shareholders, they would not take any more chances of the city expropriating or in some rather drastic manner recovering the franchise. They'd take the quick and certain profits.

"I do not for one moment believe that Mr. William Mackenzie and his associates in the management of the Toronto Railway would oppose a movement of this kind. They might further it. But, of course, if the shareholders could all be held together and told that by expropriation they would get a big price, perhaps $2 per share, some delay might occur; but, as I said, shareholders are learning something these days, and they are not going to take big chances fighting a municipality that is bent on recovering a franchise essential to the welfare of its citizens, and that has become a public scandal.

Ask for Order-in-Council.

"In a word, let the mayor call the council together, let him at least go the length of consulting a broker in regard to the acquirement of these shares, then let him go to Sir James Whitney and ask for an order-in-council guaranteeing the necessary legislation to allow the city to buy and pay for these shares and Toronto can be in possession of the railway within two weeks! The minority shareholders would soon sell out at the same price.

"And when she gets possession of the railway she can provide at once for the entrance of the radials, for extensions all over the newer portions of Toronto, and in a hundred ways converting what is a public nuisance and an inferior service into a genuine public blessing."

AT OSGOODE HALL

ANNOUNCEMENTS.

Dec. 8, 1910.

Judges' Chambers will be held on Friday, 9th inst., from 10 to 11 a.m.

Argument on motion in Clarkson v. Snider will be resumed at 10 a.m. in single court.

Peremptory list for divisional court for Friday, 9th inst., at 11 a.m.

1. Osler v. Reamsbottom.
2. Caswell v. Toronto Ry. Co.
3. Re Boyle and Milne.
4. May v. May.

Court of appeal sittings were concluded.

Master's Chambers.

Befor Cartwright, K.C., Master.

Cameron v. Driscoll.—H. M. Mowat, K.C., for defendant. H. Ferguson for plaintiff. Motion by defendant to transfer action from the county court of Renfrew, to the county court of Carleton.

Judgment: The whole dispute is as to the quality of the lumber in question. This is at Ottawa and can only be seen there. Another reason is that while defendant swears to six witnesses, all residents at Ottawa, the plaintiff's affidavit gives neither the name nor the residence of any of the eight witnesses he speaks of as material, nor any indication of what they will depose to. The order will therefore be made, with costs in the cause.

Kennedy v. Kennedy.—W. A. Baird for R. Kennedy. E. D. Armour, K.C., for defendant. Motion by plaintiff to set aside two vesting orders of July 3, 1908, and Oct. 1, 1908. Motion dismissed with costs.

General Electric v. Reynolds.—S. W. Field for defendants, the Reynolds. Hubbard (Eyre & Co.) for plaintiffs. Motion by defendants' for an order for particulars of paragraph 4 of statement of claim. Particulars having now been furnished, motion dismissed. Costs in the cause.

Weber Co. v. Berlin Lion Brewery.—D. C. Ross for defendants. F. E. Hodgins, K.C., for plaintiff. Motion by defendants for an order adding Louis S. Weber as a defendant. Motion dismissed. Costs in the cause.

Mills v. McKim.—M. C. Cameron for defendant. J. P. White for plaintiff. Motion by defendant for an order for cross-examination of plaintiff on his affidavits filed in answer to motion for security for costs. Reserved.

Brown v. City of Toronto.—T. H. Wilson for plaintiff. H. Howitt for defendants. Motion by plaintiff for the examination of plaintiff de bene esse, and also a motion by defendants for an order for a medical examination of plaintiff. Order made for examination by Dr. William Britton at such time and place as he may appoint, and order on plaintiff's motion for examination de bene esse. Costs in cause.

Single Court.

Before Falconbridge, C.J.

Re Estate of John Graham.—S. W. Field for executors.— F. Denton, K.C., for Mary A. Graham. B. N. Davis for George H. Graham. Motion by executors under C.R. 938 for an order construing will of John Graham.

Judgment: Taking the language of the whole will into consideration I think it is certain that the testator intended that George H. Graham should take the interest provided for by paragraph five . . . the property is spoken of as being held by Mary A. Graham in trust, which is inconsistent with any theory that she should take it absolutely. . . . Mary A. Graham does not take an absolute interest. The executor may not therefore pay or hand over to Mary all the rest and residue of the estate. Costs to all parties out of estate.

Before Riddell, J.

Re Estate of H. M. Rose.—R. L. Defries for applicant. Motion by Helen Amelia Barnes for the appointment of a trustee in place of Delia Caroline Rose, deceased, to act with petitioner.

Judgment: Order may go appointing Helen Amelia Barnes and Robert A. Mulholland trustees under the last will and codicils of Harey Milton Rose, and vesting the estate of the said Rose in them as such trustees. This order is made under the peculiar circumstances of the case, and is not to be drawn into a precedent.

Re Jacques Estate.—W. Proudfoot, K.C., for executors. W. A. Baird for Hospital for Incurables, etc. F. W. Harcourt, K.C., for infants. Motion under the Settled Estates Act for liberty to sell certain lands. On applicant's satisfying the official guardian that the price is a reasonable one, order to go approving sale. Purchase money to be paid into court and mortgage to be given to accountant. Costs out of fund.

Before Middleton, J.

Re Mathe.—A motion under C.R. 938 for an order construing the will of Henrietta Mathe. Argued at Ottawa weekly court.

Judgment: The Wills Act, sec. 26, applies and the will takes effect as the Sophie had died immediately after her mother. So declare. No order as to costs. A fee of $10 for obtaining counsel's advice might properly be allowed executors on passing their accounts.

Trial.

The Chancellor.

Gordon v. Moose Mountain, Limited.—R. McKay, K.C., for plaintiff. E. D. Armour, K.C., for defendants. Judgment: Plaintiffs are licensees with power to cut and remove all red and white pine timber upon the locations set forth in the pleadings during the years 1909 and 1910. Defendants claim to be owners of the same area under different crown patents of the lands, as mining lands, which are subject to the reservation to the crown of all the pine trees standing or being on such lands. The patentees may cut and use such trees as may be necessary for the purpose of building, fencing and fuel on the lands so patented, or for any other purpose essential to the working of the mines thereon, and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation. Judgment referring to the master at Sudbury to ascertain and state what damages the plaintiffs have sustained by the defendants cutting and removing timber from off the lands in the pleadings mentioned other than for purpose of building, fencing, fuel and mining operations on the particular lot from which such timber has been cut and removed by the defendants. Further directions and costs reserved until after report.

Before Middleton, J.

McCulloch v. McCulloch—D. B. Mclennan, K.C., and C. H. Cline (Cornwall), for plaintiff. G. J. Gogo (Cornwall), and J. G. Harkness (Cornwall), for defendant. An action to establish a right of way either as a way of necessity or as acquired by prescription between two farms known as the plaintiff's east and west farms, across the defendant's farm, which lies between them. Judgment: The claim to an easement of necessity is now at an end if it ever existed. The plaintiff's right, based upon prescription, fails, and the other matters argued at the hearing need not be considered. Action dismissed with costs.

Divisional Court.

Before Mulock, C.J.; Clute, J.; Sutherland, J.

Scott v. Griffith—F. D. Kerr (Peterboro), for defendant. D. O'Connell (Peterboro), for plaintiff. An appeal by defendant from a judgment of the county court of Peterboro of June 20, 1910. Argument of appeal resumed from yesterday and concluded. Appeal allowed to the extent of varying the judgment by reducing the amount of damages to $100, defendant to pay plaintiff's cost of action on the county court scale. No costs o appeal to either party.

Davis v. Winn—J. MacGregor, for plaintiff. H. E. Irwin, K.C., for defendant. A. R. Hassard, for defendant, Torrence. An appeal by plaintiff from the judgment of Meredith, C.J., of Oct. 3, 1910. An action by a whitewasher for $1500, alleged to be the value of certain goods left with plaintiff's mother, to be kept for him and returned on demand, but which plaintiff alleged were sold by his mother to defendant, Torrence, without his permission or consent, or any lawful authority. Plaintiff's action is against Ellen Winn, his sister, and the executrix of the last will of Victoria Davis, plaintiff's mother, and against Orum Torrence, the purchaser of said goods. At the trial the plaintiff's action was dismissed with costs. Appeal argued and dismissed with costs.

Court of Appeal.

Before Moss, C.J.O.; Garrow, J.A.; Maclaren, J.A.; Meredith, J.A.; Riddell, J.

McKeand v. C.P.R.—I. F. Hellmuth, K.C., and A. MacMurchy, K.C., for defendants. W. M. Douglas, K.C., and G. F. Mahon (Woodstock), for plaintiff. An appeal by defendants from the judgment of a divisional court dismissing their appeal from judgment of Magee, J., of March 11, 1910. Argument of appeal resumed from yesterday and concluded. Judgment reserved.

Before Moss, C.J.O.; Garrow, J.A.; Maclaren, J.A.; Meredith, J.A.; Magee, J.A.

Rex v. McDevitt—T. C. Robinette, K.C., for defendant. J. R. Cartwright, K.C., and E. Bayly, K.C., for the crown. A case stated by the judge of the county court of Peel, on the question "Was there any evidence of any unregistered prior grant, mortgage, sale, hypothec, privilege or encumbrance of or upon the said property within the meaning of section 421 of the criminal code of Canada, and did the acts of the defendant, as stated in the evidence, constitute any offence within the meaning of the said section." The case was argued and judgment reserved.

Rex. v. Hamilton—T. C. Robinette, K.C., for defendant. J. R. Cartwright, K.C., and E. Bayly, K.C., for the crown. A case stated by Denton C.C. judge for York, on the question "Is the decree of the superior court of Marion County, Indiana, awarding the custody of the child in question to the mother of such validity and effect in Canada, as to render the father of the child liable under section 316 of the criminal code, of taking or enticing away, with intent to deprive the parent of the possession of such child." The question argued and judgment reserved.

Rex v. Yuman—T. J. W. O'Connor, for defendant. J. R. Cartwright, K.C., and E. Bayly, K.C., for the crown. A case stated by Denton, junior judge of the county court of York, on conviction of defendant, for neglect to provide for his wife, on three questions; (1) as to evidence admitted at a previous trial; (2) as to jury finding him not guilty in case they were satisfied that he had not the ability to provide necessaries, and (3) as to finding him not guilty if wife never offered to return and never asked for necessaries after previous trial. Questions argued and judgment reserved.

This concluded the sittings of the court.

Admits Two Burglaries.

BRIDGEBURG, Ont., Dec. 8.—Claud Dickeout, alias C. M. McCarthy, charged with having stolen goods from Swartz's drug store, Ridgeway, on Nov. 15 and 18, claims to live in Rochester, N. Y., but was born at Ridgeway, Ont. He was arrested by J. R. Dowd, provincial constable of Bridgeburg, in Buffalo, on Monday night. The officer also secured most of the stolen goods, worth over $500. Altho Dickeout protested strongly he knew nothing about it at first, he finally admitted the two burglaries. Dickeout was taken before Magistrate Clark at Stevensville and admitted his guilt, but was sent for trial before the county judge.

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$1.25 Bottle—A superior Dinner Wine of fine flavor, or an Invalid Wine with all the qualities for which Sherries are recommended for use by invalids and convalescents.

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