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THE PRIVY COUNCIL JUDGMENT.

Now that, thru the enterprise and public spirit of The Evening Telegram, the full text of the privy council judgment in the street railway litigations has been made available, the disadvantages attending a remote ultimate court of appeal have become clearly apparent. The points at issue have been determined on the narrowest and most technical grounds, and on principles far enough removed from those which ought to dominate a final tribunal. No greater contrast could be imagined in this respect than is provided by the reasoning of Lord Collins, who spoke for the judicial committee, as compared with the wide and comprehensive outlook which characterize the decisions of the supreme federal court of the United States when dealing with legal questions involving important public issues. It has been to the especial credit of that greatest appeal tribunal that, thruout its honorable history, it has kept closely in touch with public affairs, and, when the interests of the state required, has never hesitated to subordinate professional technicalities to constitutional requirements and the call of the higher equities. Such, indeed, is one of the most necessary functions of a final court of appeal, and within the more limited range offered by the presence of parliamentary institutions, it has distinguished the action of the house of lords as the ultimate tribunal for the United Kingdom.

In the street railway cases the judicial committee of the privy council has unquestionably failed to read the agreement between the city and the street franchise holders as a whole, or according to its spirit and the evident intention of the contracting parties. The express stipulations designed to protect the citizens in the operation of a necessary public service have been set aside on a labored argument that they are inconsistent with the privilege granted in the earlier clauses of the agreement. Yet it is a cardinal rule of legal interpretation that if the intent of parties is clear, the court must be governed by the fact and the citizens may well ask why conditions agreed to by the franchise holders were not treated by the judicial committee as limitations under which the operation of the railway service was to be conducted. Instead of so holding them, this remote court of appeal, ignorant of local circumstances, has on two of the main issues reversed the judgment of all the Canadian courts, who in turn considered the questions submitted to them. The net outcome is that the provisions for control of a public servant, conditions accepted by it as part of the undertaking in respect of which it received its exclusive privilege, have been repudiated and the company left as absolutely free from regulation and supervision as if no agreement had been entered into at all.

Questions involving the operation of public services and utilities are precisely those where a supposed inconsistency or ambiguity should be construed in the sense which is most in accordance with the interests of the people, who are the real owners of the franchise and who have parted with it for a limited period on terms manifestly intended to secure efficient and satisfactory operation. The Canadian courts, conversant with local affairs, and in touch with public necessities, so construed the agreement, and thus vindicated their right to public confidence. It has been left to a tribunal four thousand miles distant and absolutely ignorant of Canadian and provincial circumstances, to treat an agreement between the citizens of Toronto and a provincial company, with no other knowledge than can be afforded within the four corners of the document before them. Even at that the judicial committee, in order to reach its extraordinary conclusions, strained the English language to the uttermost and attempted to justify them by arguments smacking more of the special pleading of a legal casuist than the quality that should distinguish an imperial court of appeal. This melancholy business should make the citizens resolute in their determination to resume at the earliest possible moment every one of the civic franchises. Proper control of public service corporations, it has long been manifest, is practically impossible and cannot well be otherwise when safeguards imposed in the public interest are arbitrarily swept away as inconsistent with the bestowal of a franchise privilege.

SUCCESSFUL MUNICIPAL STREET RAILWAYS.

From details of the year's working to March 31 last of the street railways of Leeds, England, given in a recent number of The London Municipal Journal, it appears that the net profit available in relief of rates amounts to $250,000, or $10,000 more than the estimate. This was reached after payment of rates and taxes, amounting to over $97,000, paying all interest on borrowed money, and $190,000 towards the sinking fund and setting aside $150,000 for the reserve or renewal fund. On submission of the accounts the committee in charge cordially congratulated their manager on the result and passed a vote of thanks to him and his staff. Prosperity and splendid service are the hall marks of public ownership and operation conducted on strict business rules, and can be as easily secured in Toronto as they have been in Leeds and many other cities of Great Britain.

"IMPERIAL UNITY; LOCAL LIBERTY."

Sir Wilfrid Laurier coined a happy motto for the British peoples when he suggested "Imperial Unity; Local Liberty." Lord John, later Earl Russell, another apt phrasemaker, once described a proverb as the wisdom of many and the wit of one, and the Canadian premier's pithy maxim epitomizes the lesso nof the centuries for the makers of the British empire to-day. Certainly the present imperial conference will establish no better title to historic importance than by making it clear beyond shadow of dispute that its successors will not be of mere departmental significance, but will be real meetings for discussion and deliberation among governments, each supreme within its own sphere and convened on a footing of absolute equality. Only by this means can the natural aspirations of the outer Britains for complete self-governing independence be met and satisfied. If this conception of the empire as a close brotherhood of nations, each freely pursuing its own course and developing on its own peculiar lines, can be realized—and there is no reason why it should not—a new and pregnant principle will be given tangible expression. Experience is a guide, not a barrier to progress, and because a commonwealth of independent states on the basis of voluntary partnership has hitherto been unknown, affords no valid proof or even inference that it is impossible.

The conspicuous feature of the pending conference has been the general acceptance of this principle, embodied as it is in Sir Wilfrid Laurier's motto, "Imperial Unity; Local Liberty." In some of the cabled advices appearing in United States papers, an effort has been made to represent the conference as divided into two sections—the Australasian, Cape Colony and Natal premiers on one side advocating the creation of a full imperial council, meaning something different from the imperial conference—and the Canadian and Transvaal premiers as successfully opposing this proposal. The impression sought to be produced is not warranted. Premier Deakin of Australia, in his speeches delivered before the opening of the conference, made it perfectly plain that the change he proposed was one in name only and in no way altered or enlarged the scope of the imperial conference as now in being. On the necessity of complete local autonomy he was just as insistent as the Canadian premier. The discussion showed the British government equally antagonistic to the creation of any body possessing, even inferentially, powers calculated to affect the free action of the individual states in dealing with the recommendations of the conference. The decided character of Lord Elgin's declaration may possibly have been prompted by the prospect of a reversal of the resolution in favor of imperial preferential trade, but its significance is not thereby diminished, and it leaves the self-governing states a unit in the matter of imperial development.

THE TELEGRAM SCOOP.

Toronto owes much to John Ross Robertson and his fearless newspaper, The Telegram, and this fact was never more clearly shown than in the public-spirited enterprise that caused the text of the privy council decision in the street railway case to be cabled to Canada and printed exclusively in The Telegram on Saturday. Whenever the big thing needs to be done, Toronto can always depend that The Telegram will be among the first, if not the first, to do it.

THE RAILWAYS AND THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

UNIFORM BILL OF LADING.—The Canadian railways have submitted for the approval of the board of railway commissioners for Canada, general terms and conditions of carriage, which they desire to place on their bills of lading, consisting of twenty-nine clauses, all of which are intended to protect the railway companies against loss; in other words, the carrying companies have asked the board of railway commissioners to override the Railway Act and common law of the country, and authorize a bill of lading which would be absolutely in the interest of the railway companies.

The board of railway commissioners have already issued one general order covering the whole of Canada, which was absolutely and entirely in the interest of the carrying companies. We refer to the legalization of demurrage or car service charges.

The success of the railway companies in this particular case has emboldened them to seek further privileged legislation, and their request for the approval of the general terms and conditions of carriage submitted by them is simply another attempt to secure the passage of legislation which is not in the interest of the people of Canada.

The suggestion made by the Toronto board of trade, that a clean bill of lading should be adopted without any conditions other than those imposed by the Railway Act and the common law of the country is fair and equitable, and will meet with the approval of the public. If the railway companies desire to show on a bill of lading the things for which they disclaim responsibility, they should also, on that bill of lading, clearly show what they are responsible for. It would be manifestly unfair to adopt a bill of lading which is issued absolutely in the interest of one party to a contract, and that is precisely what the board of railway commissioners will authorize if they approve of the bill of lading submitted by the carrying companies. There are a number of clauses in the proposed bill of lading which are contrary to the common law, and one in particular is in conflict with a proposed amendment to the Railway Act, which is now before the house of commons for consideration. We refer to clause No. 20, which states that the carrying companies are not responsible for delays in transit. There is now before the house of commons a bill which specifically provides a penalty against the carrying companies for delays to traffic, and, until such time as that matter is dealt with, the board of railway commissioners cannot approve of any such clause.

Clause No. 10 is contrary to the provisions of the Railway Act, inasmuch as it gives the railway companies a lien upon traffic for any general balance due to the company by the owner of such goods. The Railway Act specifically provides that the carrying companies shall have a lien upon traffic for the charges upon that specific shipment, but it does not permit the company to maintain a lien upon one shipment for any general balance due to the railway companies, and which may be a matter of dispute between the shipper and the carrying company.

The attempt made by the carrying companies to secure the adoption of a bill of lading of the nature in question, is but another evidence of the necessity for having competent traffic experts on the board of railway commissioners, and a reorganization of that body is necessary in the interests of the people. The board of railway commissioners should be given clearly to understand that they were not created for the purpose of passing legislation in the interests of the Canadian railways, but that it is their duty to protect the public against the encroachments of the carrying companies. It is to be sincerely hoped that the board of railway commissioners will in this case use a little better judgment than they did in legalizing car service charges without requiring equivalent compensation from the railway.

The Railway Act and the common law of the country are quite sufficient to protect the railway companies without additional legislation, and if they are good enough for the people they should certainly be good enough for the railway companies.

The proposed bill of lading should not receive the sanction of the board of railway commissioners.

Dunn Seeks Retraction.

WALKERVILLE, April 28.—Captain Edward Dunn of the Dominion fisheries cruiser Vigilant threatens to start proceedings against his former first mate, J. S. Inkster, unless Inkster makes a public retraction of the charges which he made, but failed to substantiate at the recent investigation

MASSEY HALL CROWDED TRIBUTE TO NORDICA

Grand Opera Before an Audience of 4000 People on Saturday Night.

More brilliant assemblages of people have been seen in Massey Hall than that which greeted the third and closing program of the San Carlo Opera Company on Saturday evening, but as testimony of the enduring favor in which the chef-d'oeuvres of the Italian maestro, Verdi, are held in Toronto, it may be said that seldom has a more appreciative throng of music-lovers been seen on any past occasion in this city. Indeed the house was packed from floor to ceiling, except in the corners up and down stairs, out of which, by reason of the unfitness of the place for dramatic performances, it would be impossible to see what was going on upon the stage.

That the music rather than the fame of the artists presenting the opera was the principal attraction might perhaps be inferred from the overwhelming majority of ladies in the audience. The top gallery held as great a profusion of pretty garments as either the floor or the first gallery, where the black coats of the male portion of the house merely dotted the circling expanses of feminine costumes and glowing shoulders.

Mme. Lillian Nordica took the role of Violette in the always pleasing "La Traviata." The dramatic part of the task was not to be expected an easy thing for her, but tho she should lack in this her magnificent voice would ensure triumphant success. It was therefore with the complete assurance of a rare feast of grand opera that four thousand people saw the curtain rise to Sig. Arnoldo Conti's baton. Every accessory of distinguished art was available, apart from inadequate stage room and equipment. The cast was, in the opinion of many, the best that America has ever shown in Italian opera, whilst in regard to costumes and instrumental accompaniment the San Carlo outfit is rich far beyond either provincial wish or cavil. From the overture to the fall of the curtain (with a whack) the presentation of the hauntingly romantic drama of haunt ton tenderloin life in France during the reign of Louis XIV. was fine art. But so feelingly was the story of the lost one unfolded, so exalted did unconventional love grow in the process of Violette's progress to death and so ideally passionate and self-sacrificing a voluptuary did Mme. Nordica personate that age and youth were alike impressed by the glamor of the story she sang to them. And in Senor Constantino she had an almost perfect Alfredo to sing duetts with. They were a stunningly upholstered and gifted pair. Mme. Nordica's gowns were creations that enhanced her physical bounties and veiled the increase of her now just a little over mature womanhood. So far as her voice is concerned years cannot diminish its glorious purity. It rang out the response like the pipe of maidenhood thrilling with life in the captivating Libiamo, libiamo scene, wherein by the way the house also capitulated to Senor Constantino by reason no less of his fine presence than his grand tenor voice. Thenceforward there was nothing to be desired as between the rivalry of the heroine and hero for the favors of the audience, albeit and whereas Mme. Nordica sang her intoxication of love to an almost spiritual finish in the last scene of death, Senor Constantino was all in all an impulsive, and almost bullying lover whose soul was not really touched by the gradual transfiguration of his mistress until the revelation came upon him visibly that her death put the cup of grief to his hot lips.

It would be palpable negligence to withhold an emphatic word or two of praise for the work of Signor Galperin as the elder Germont, and for that of Signor Pulcini as the Barone, to to omit the tribute due and paid by all to Mme. Perego as "Flora," and Mme. Golfieri as "Annina." In short, nothing was coming to the entire cast but appreciation and applause, and richly deserved it was. Where the performance was so even in the excellent quality of its art it would seem in a way invidious even to pick out particular or individual details tho the chorus work in the second act roused the house to a high pitch of musical enthusiasm fairly divisible between the artists on the platform and those in the orchestra.

Mme. Nordica died beautifully, thanks to the resisting power offered by Senor Constantino's muscular arms, and she reached the floor like a wreath of snow very fair and to all appearance as fragile as the beauteous creature Violette should have been upon so affecting an occasion.

The entire force as below was called before the curtain, while the departing audience turned again and again to renew its applause:

Violette	Mme. Lillian Nordica
Flora	Mme. Perego
Annina	Mme. Golfieri
Alfredo	Senor Constantino
Giorgio Germont	Sig. Galperin
Gastone	Sig. Giaccone
Marchese	Sig. Valentini
Barone	Sig. Pulcini
Dottore	Sig. Perini

Conductor, Sig. Arnaldo Conti.

"Mr. Hopkinson," the Carton farce comedy, which was seen here earlier in the season, will be repeated at the Princess to-night. The farce is one of the most amusing that local theatre-goers have been able to enjoy, while Dallas Welford made himself a great favorite in the odd character he so cleverly presents. "Mr. Hopkinson" will also be presented Tuesday and Wednesday evenings, and at the Wednesday matinee. On Thursday, Friday and Saturday evenings and at the Saturday matinee, for the first time in Toronto, another farce success, written by the author of Mr. Hopkinson, entitled "Public Opinion," will be

"The Arrival of Kitty" is the attraction at the Grand this week. Norman Lee Swartout, the author of this comedy, outdid himself when he completed this melange of fun and melody. Its fast, snappy, bright manner and the way it is presented to the audience makes them like it. The play possesses the attributes that go to make an entertainment popular with all classes of theatregoers. The funny situations are of a kind that make the public sit up and take notice. Mr. Swartout has woven together a fabric of fun, frolic and melody of sufficient strength to coin him immediate success. Everywhere the comedy has been presented it has pleased immensely.

The melodramatic offering at the Majestic Theatre this week, "For A Human Life," is said to contain a whirlwind of exciting scenes and climaxes. It is the story of the daughter of a millionaire mine-owner, whose affianced husband is charged with a crime and thru a chain of circumstantial evidence convicted and sentenced to death. She sets about to prove his innocence. Her adventures on this mission are the features of the play.

A bill of great merit, with William Gillette's one-act play, "The Red Owl," as the headliner, and the famous Glinceretti troupe of acrobats as a special feature act, will be presented at Shea's Theatre this week. Howard and North, the Franz-Eberts Company, the Musical Avolos, Eleanor Dorel, Scott and Wilson, and the Mimic Four are among the others on this week's program.

The sale of seats for Miss Luttrell's concert at Association Hall to-morrow evening, opened Saturday morning at Nordheimer's, and promises to be exceptionally large. The affair is under the patronage of his excellency the governor-general and his honor the lieutenant-governor. Such well-known artists as Madame Le Grand Reed, soprano, and Mr. J. D. A. Tripp, pianist, will take part in the program.

DIDN'T GO TO SUNDAY SCHOOL

And as a Result a Young Man Got a Jail Sentence.

Euphemia Wilson, a young girl under 15 years of age, living in the Township of Wyndham, County of Norfolk, told her parents that she was going to Sunday school, but instead went for a drive with one Ross Howard, and did not return home until next day.

Euphemia's father had Howard brought before Police Magistrate Griffin of Delhi, on the charge of unlawfully taking a girl under 16 years of age, out of the possession and against the will of the father.

Howard was convicted and sentenced to 30 days in jail at hard labor. Before Judge Teetzel, in chambers, A. R. Hassard, counsel for Howard, obtained an order for a writ of habeas corpus and certiorari in aid to have the matter before a high court judge.

Friday, May 3, is the date that the jailer of the County of Norfolk is to have the prisoner before the judge in chambers at Osgoode Hall.

APPEALS TO THE PRIVY COUNCIL

Editor World: The case of the City of Toronto v. the Toronto Railway Company brings prominently forward the whole question of the advisability of the privy council of Great Britain constituting, as it does now, the court of final resort for the colonies, and this not in any way on account of the judgment just rendered, but on general principles. It appears to me wholly unnecessary that the privy council should have any jurisdiction in matters either of contract or in tort in any of the provinces. In all such cases the judgment of the court of last resort in each province should be final. Appeals to the privy council should, in my humble opinion, be restricted entirely to cases involving constitutional issues. On the same principle our own supreme court at Ottawa should be restricted in its deliberations to matters only of inter-provincial interests. Surely it is not too much to believe that each province can furnish a court of appeal of such judicial strength as to give to the general litigating public of each province a willingness to abide by their decisions in all domestic relations as final. An amendment to the B. N. A. on the lines I have suggested would certainly tend to a quicker finality in judicial proceedings, and the saving of much cost to litigants often unable to bear the burden.

P. H. Drayton.

AT OSGOODE HALL

ANNOUNCEMENTS FOR MONDAY.

Chambers.

Cartwright, master, at 11 a.m.

Single Court.

The Hon. Mr. Justice Anglin, at 11 a.m.:

1. Re Moyer Estate.
2. Re Beattie Estate.
3. Hay v. Imperial.
4. Re Hill Estate.

Divisional Court.

Peremptory list for 11 a.m.:

G.T.R. Co. v. Toronto.
McAllister v. McAllister.
Slater v. Royce.
Troy v. Hamilton.
Moffatt v. Carmichael.

Action for Damages.

George Cappel of Toronto Junction has issued a writ against the Canadian Cycle and Motor Co. of Toronto, claiming unstated damages for negligence.

Suit to Recover Loan.

The Standard Loan Co. have begun an action against the H. W. Convey Co. to recover $2055 borrowed by defendants from the Canadian Savings, Loan and Building Association, who have assigned the mortgage to the plaintiffs.

A Sad Story.

Thomas Hodgson has an action pending against Albert Bible, a farmer of the Township of Albion, claiming $5000 for the death of Mary Florence Hodgson, his daughter, employed by Bible as a domestic servant. The girl died at the birth of the child of which it is alleged Bible is the father. The defendant moved before Master in Chambers Cartwright for an order directing particulars of certain paragraphs of the statement of claim. Judgment was reserved.

Object to the Bequest.

James Madill and other heirs of Joseph Madill, who died at Creemore in February, 1906, have a nuction pending against the executors and certain beneficiaries, to have the will set aside. Madill left a bequest to the Foreign Mission Board of the Presbyterian Church in Canada, and the plaintiffs are also asking that this be set aside. Before Master in Chambers Cartwright an application was made to add certain parties to the action. Judgment was reserved.

Trial at London.

In the libel action from London in the case of Lewis against Moore, an application was made by Moore to change the venue. After consideration judgment has been given directing that the venue be changed and the action tried at London. Costs are given in the cause to defendant.

CHARGES AGAINST MINISTER

Cayuga Will Have Sensation Trial on Tuesday.

CAYUGA, April 28.—The Methodist Church in this town will be the scene of a big trial on Tuesday. The judge will be Rev. R. G. Elliott of Waterloo, president of the Hamilton conference, and five pastors of this district will constitute the jurors. The main defendant is Rev. JH. Dyke, the pastor of the church, and against him there are half a dozen charges. Alex Mitchell, one of the church officials, laid the charges. Rev. Mr. Dyke, in turn, has laid a charge against Rev. Mr. Mathers, Hagersville, the district president. The charges against Rev. Mr. Dyke are defamation of character, falsehood, deceit, mal-administration, indiscreet and disorderly conduct in the church.

Spain Adopts Drago Doctrine.

MADRID, April 28.—It is understood that Spain has decided to support the Drago doctrine, denying the right of a nation to use force in the collection from other nations of public debts, if it figures on the program of The Hague peace conference.

FLEET ARRIVES AT SOO.

DETROIT, April 28.—The fleet that was held by the ice between Whitefish and Iroquois began arriving at the Soo yesterday, but locking is very slow, owing to the ice in the locks.

Treaty of Peace Approved.

SAN SALVADOR, Republic of Salvador, April 28.—The treaty of peace signed last week at Amapala, on board the American cruiser Chicago by representatives of Nicaragua and Salvador, and by Philip M. Brown, secretary of the American legation to Guatemala and Honduras, was approved yesterday by the government of Salvador.