The Toronto World

FOUNDED 1880.
A Morning Newspaper published Every Day in the Year.
WORLD BUILDING, TORONTO.
Corner James and Richmond Streets.
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SATURDAY MORNING, JUNE 24, 1911.

RAILWAY BOARD'S GOOD ADVICE.

If the city council can rise to the lead given by the Ontario Railway Board in the orders given yesterday afternoon, a great impetus may be given the development of the city's plans this fall. There can be no doubt of the need for despatch in dealing with the matters touched upon.

"We do know," says the board's judgment on the city car lines, "that there are a large number of people in the territory recently annexed to the city that require street cars and should have them."

The board recognizes the fact that a large revenue is received from street car traffic and thinks "it is only fair that the ratepayers who have street cars and who profit by the revenue should spend some share of that revenue in providing street car service for their less happily circumstanced citizens.

"We think we should facilitate the city in doing justice to the people in the annexed districts by providing them with street car transit."

It is now incumbent upon the city authorities to make speed with the new lines.

The board also spoke with sense and consideration in regard to the annexation of North Toronto. We call attention to the remarks of the members, which apply not only to North Toronto, but to all the territory immediately susceptible to civic incorporation.

"From our knowledge of the surroundings and of the growing necessity of the great city, we are of the opinion that not to take advantage of the opportunity of annexation now presented would be a misfortune."

This statement from the board is well meant, and should be accepted in the spirit in which it is made. It represents very considerable investigation and experience, and is supported by the opinion of leading citizens who have studied the matter. Nothing but innate perversity in the aldermen can prevent them accepting such good advice.

In the two months left, all the annexation problems now in view in connection with Swansea, North Toronto, and any adjoining shreds and patches should be dealt with. The council might congratulate itself on having really achieved something in the coronation year, should these plans be brought to consummation.

WIDENING KING AND YONGE-STREETS.

In the statement by Mr. David McNicoll of the C.P.R., concerning the property at the corner of Yonge and King-streets, there is nothing to show that the company would not accept the larger portion of land if it could be had. Mr. McNicoll is only careful to point out what would be necessary to be done to acquire it and the cost. He objects to take five feet from the present King and Yonge-street lots, on either street or on both. Mr. McNicoll does not appear to have declined to entertain the idea of a larger building in making the statement of the obviously increased cost.

NEW ONTARIO AND HUDSON BAY.

The views of G. T. Somers, vice-president of the board of trade, in regard to New Ontario seem to be on the line of good policy and worthy of realization. He believes that New Ontario is the greatest asset this province or the whole Dominion has at this moment; that it will be the seat of many industries; that the sooner it is opened up, the better.

Mr. Somers would extend the Timiskaming & Northern Ontario Railway immediately to Hudson Bay and in that way put it in living touch with Southern Ontario. There are immense fishing resources in Hudson Bay of one kind or another and there are all kinds of possibilities of trade up rivers that flow into the Hudson Bay, once they can make direct railroad connection with Toronto. Mr. Somers would vote—and The World would support such a proposal—$5,000,000 for roads opening up the clay belt country to settlers, giving the settlers first of all roads into the townships laid out for settlement, and if necessary build the first settlers a small house and barn at public expense, but the cost of which would be repaid at a reasonable rate of interest later on by the settler. All that is wanted now is to start settlement going in New Ontario and once it starts and the wealth of the country is made accessible and available wonderful results ought to follow.

And speaking of Hudson Bay, the completion of the railway to its shores will open up the greatest inland tourist country in America and yet, while inland, being at the same time on salt water. The great tourist country of all North America will be about Hudson Bay the moment the railway gets there. All other tourist grounds will be insignificant when compared with the new and greater one that will, with 150 miles additional railway, be within easy reach not only of the people of Ontario, but of the residents of the United States, in what is known as the Valley of the Mississippi. The people of Chicago will go to Hudson Bay as their seaside resort when they can get there by rail.

OTHERS MUST FOLLOW.

The Dominion Bank has put out another million dollars of stock to its present shareholders, one new for each four shares of the old. The price is $200 for a hundred dollar share now selling at $240. The capital will now be five millions.

The growth of the business of the country will justify all the banks in following the lead of the Dominion and the others who have increased their issues. The capital of the banks would be increased much more rapidly were it not for the policy of shareholders to keep all increases in stock strictly within the limits of what they themselves are able to absorb. All the Canadian banks are making money because of expansion of the business in the Dominion, and if the new capital cannot be obtained in Canada no bank shareholder should object to its being found in Britain. The Canadian chartered banks can only keep pace with the Canadian commercial growth by increased facilities and British investors have and will supply the funds for Canada's legitimate growth.

A CONSTITUTIONAL FAILURE.

As an instrument of modern democracy the much vaunted constitution of the United States has proved a rank failure. It has proved to be without that capacity of adaptation, which is the distinguishing characteristic of the flexible unwritten British constitution. Provisions intended to safeguard citizens of the United States from abuses prevalent in the eighteenth century are now used to prevent the citizens of the twentieth century from obtaining relief from other and more serious abuses. None will deny that the British democracy has had a hard struggle to win political and social reform. But it has also had the satisfaction of knowing that when the people really did make up their minds, neither crown nor peers could offer more than temporary resistance, and further, that when a measure did reach the statute book, all that was left to courts of law was to administer and interpret the act.

Even after the democracy of the United States has risen in just wrath and elected all the agencies necessary to carry out its mandate, it may be just as far off as ever from redress. United States democracy is entirely at the mercy of the federal and state judges. The welfare of the people—the greatest good of the greatest number—is supposed to be the aim of democratic government. In the United States its citizens, prone to boast of their unparalleled freedom, are ruled by bosses of all kinds, who find safety too often in the very places built for the dispensation of justice. The great republic has escaped from one kind of tyranny only to land in another with far greater opportunities for oppression and far greater difficulties in the way of escape. That is certainly a curious constitution which creates three independent agencies to thwart each other and then when they are all agreed has a fourth in readiness to overrule their work.

Tenders are being asked by the federal government for the construction of a reinforced cement concrete pier at Halifax. The use of concrete as a building material under all sorts of conditions is characteristic of the age. No up-to-date community can afford to ignore it.

Bell Company Piano Contest.

The preliminary examinations for the Bell Company's $100 prize piano playing contest have concluded. Those eligible to take part in the finals at the Association Hall next Tuesday evening are: Harold Spencer, pupil of W. E. Fairclough, Toronto College of Music; Eva I. Galloway, pupil of Mrs. Farmer; Simeon Joyce, pupil Toronto Junction College of Music, Gladys McMaster, Apollo School of Music; Kathleen Davis and L. C. Stewart, pupils of Mrs. W. R. Draper; Isabel Qua and Helen Skey, pupils of Miss Mary Kemp. The amount of talent shown by these aspiring young artists was a real surprise to the examiners, and there is no doubt that the final contest will be a most spirited one. The plan of reserved seats is now open at the warerooms, 146 Yonge-st.

Governor-General's Body Guard Band.

The band of the Governor-General's Body Guard will furnish music on the Niagara Navigation Company's steamer Cayuga on her 2 p.m. trip from Toronto to-day. Round trip fare 75 cents.

AT OSGOODE HALL

ANNOUNCEMENTS.

June 23, 1911.

Master's Chambers.
Before Cartwright, K.C., Master.

Standard Loan v. Lumby—T. H. Wilson, for plaintiff. J. T. Loftus, for defendants. Motion by plaintiff for judgment under C. R. 603. Leave to plaintiffs to amend endorsement and renew motion thereafter.

Hultman v. Glazebrook—C. H. Porter for judgment creditor. Motion by judgment creditor for an order making absolute an attaching order. The judgment debtor not yet being served, the motion is enlarged sine die to be brought on again on two clear days' notice.

Wilson v. Sills—R. W. Hart, for plaintiff. Motion by plaintiff, judgment creditor, for an attaching order. Order made, returnable 27th inst. Costs reserved.

Slater v. Slater—M. C. Cameron, for plaintiff. F. Aylesworth, for defendant. Motion by plaintiff for an order for interim alimony and disbursements. Order made for payment of $4 a week from this date and $30 interim disbursements.

Labatt v. McGirr—German (W. R. Smyth, K.C.), for plaintiff. Motion by plaintiff for an order renewing writ for one year from this date. Order made.

Charters Lumber Co. v. Edwards.—W. J. McLarty, for owner. Motion by owner in a mechanics' lien action, for an order vacating certificate of lien and lis pendens. Order made.

Judge's Chambers.
Before Middleton, J.

Goodall v. Clarke—F. E. Hodgins, K.C., for defendant. R. S. Cassels, K.C., for plaintiff. Motion by defendant for an order settling the matter to go into the appeal book.

Judgment: The only material I could look at on the motion for judgment on further directions was the pleadings, the judgment of reference, the report and the orders varying the report. I could not, even had I so desired, go beyond them and I so hold I must settle this case in accordance with my ruling and exclude everything except the pleadings, judgment report and orders on appeal therefrom. Costs in appeal.

Re Black—F. W. Harcourt, K.C., for infant. Motion on behalf of infant for an order for maintenance. Order made.

Re Cramp—F. W. Harcourt, K.C., for infants. Motion on behalf of infants for an order consolidating funds, and for payment out in accordance with the order of the chancellor.

Re Gaseling and A.O.U.W.—J. Bicknell, K.C., for a beneficiary. L. Lee (Hamilton) for a brother and executrix of another brother. Motion on behalf of one Sauer, a beneficiary for an order for payment out of court. Motion to be disposed of on an issue before the county court judge, who will dispose of costs and an order made for payment out in accordance with his finding.

Re Gregg—W. S. Ormiston, for petitioner. F. W. Harcourt, K.C., for infant. Motion by petitioners under 12 Victoria for an order allowing a mortgage for $7000. Order made. Examination of infants dispensed with.

Re Baynes—E. H. Cleaver (Burlington), for applicant. Motion by applicant for an order declaring infirmity and appointing a committee. Order made. Reference to the master in ordinary to appoint committee. Consent of daughter to be put in.

Re Scott—W. I. Dick (Milton), for mother. F. W. Harcourt, K.C., for infant. Motion by mother for an order for payment of interest for maintenance. Order made.

Re Tynan—W. I. Dick (Milton), for administrator. F. W. Harcourt, K.C., for infant. Motion by administrator for an order for directions as to advertising for absentees. Application for administration to be made to the surrogate court.

Re Cook—A. E. Knox, for sister. F. W. Harcourt, K.C., for infant. Motion by mother for an order for maintenance. Order made for allowance of $15 a month for three years. Sister appointed guardian. Cheques to be made payable to Mr. Kelley with privity of official guardian.

Re Churchill.—T. J. Agar (Simcoe), for mother. F. W. Harcourt, K.C., for infant. Motion by mother for an order for increased maintenance. Order made.

Re Taylor.—F. W. Harcourt, K.C., for infant. Motion on behalf of infant, L. I. Taylor, for an order for a sum not exceeding $100 for maintenance. Order made.

Re Schofield estate.—W. E. Raney, K.C., for executors. F. W. Harcourt, K.C., for infants. Motion by executors for leave to pay infants' moneys into court, and for payment out at majority. Order made.

Re Finn.—T. F. Slattery for mother. F. W. Harcourt, K.C., for infants. Motion by mother for an allowance of $560 a year for girl, and in addition $600 for traveling expenses, and $445 a year for the boy for two years. Order made.

Nickerson v. Northern Development Co.—J. F. Boland, for defendants. Motion by defendants for an order transferring action from the district court to the high court. No order, but without prejudice to renewal of motion.

Smith v. G.T.R. Co.—F. W. Harcourt, K.C., for widow. Motion by widow for order allowing her $450, she having paid off mortgage. Order made.

Re Wadsworth estate.—F. W. Harcourt, K.C., for infants. Motion on behalf of infants for an order allowing payment into court of certain moneys received from executors, and allowing $50 to pay bills with leave to apply for maintenance later on. Order made.

Judge's Chambers.
Before Middleton, J.

Goldfields v. Harris Maxwell.—G. H. Kilmer, K.C., for Goldfields. F. E. Hodgins, K.C., for Harris Maxwell. An appeal by defendant from an order striking out paragraph nine of the counter claim.

Judgment: The order for particulars as complained of and as part of the pleading of which particulars has been ordered is now to be struck out, the order must be amended. Save as to this the order should stand. The plaintiff must amend the paragraph in question in accordance with what I have stated by striking out the part charging fraud and the order for particulars should be amended so as to confine it to the amended pleading. Costs to the plaintiff in the cause in any event.

Harris Maxwell v. Goldfields.—G. H. Kilmer, K.C., for defendant. F. E. Hodgins, K.C., for plaintiff. A motion by defendant to strike out an amendment to statement of claim as embarrassing.

Judgment: Any attempt on the part of the company to set up the right of the shareholder based upon a fraud practised upon him in an attempt to raise an issue not open to plaintiff and is embarrassing. The pleading should be amended. Costs to defendant in the cause.

Single Court.
The Chancellor.

McKenzie v. Elliott.—J. Shilton for defendant. W. Mulock for plaintiff. An appeal by defendant from the report of the master in ordinary. Plaintiff sues for the price of a barn built for defendant, and for a percentage of the price for superintendence of the work, claiming $10,129. The defendant paid from time to time $5000, and the suit is for the balance, $5129. The defence was that the barn was built under contract and was to be completed according to plans and specifications for $7000.

Judgment: Here the contract price for the whole as varied was $7000; to this extras are to be added to be ascertained according to a just and reasonable valuation having regard to the diminution of expense, which has resulted to the contractor from the reduced size of the building and giving credit for the wood, stone and other materials supplied by the owner. The account will have to be taken in this way unless the parties are content that I should now fix the price. To save the expense of further litigation in the master's office I propose to give judgment that the plaintiff shall receive $8000 in full of all his work. That, I think, is about the fair estimate to be arrived at from the various figures given by all those who spoke as to the price, unless either of the parties seeks a further reference. In that cases the costs of such reference would be reserved and the master should report specially on the various items that I have indicated. But whatever the parties may do as to the price to be paid for the barn, I think that the plaintiff will have to pay the costs of the reference in the master's office up to the present and the costs of appeal. The whole has been occasioned by his indicating a wrong basis of payment, and all that has been done proves futile. Of course if the case goes on, the evidence already taken may be used for what it is worth before the master, but that does not exempt the plaintiff from now paying these costs. If the case rests here I would give no costs up to the judgment of reference, but if the case goes on I would reserve the costs to be dealt with at the close on further discussion.

Before Middleton, J.

Re Donnelly Estate—F. M. Field, K.C., and C. A. Moss for administrator. J. B. McColl (Cobourg) for adult beneficiaries. F. W. Harcourt, K.C., for infants. E. N. Armour for the Commonwealth Trust Co., the American administrators. Motion by the Canadian administrators under C. R. 938 for advice.

Judgment: On consideration I think Mr. McColl placed this matter in the true light. As soon as the Ontario creditors are paid, the local administrator holds the property solely for the principal administrator and the principal administrator making such sale of the property as it sees fit can call upon the local administrator to convey to its nominee. The question of price is one entirely for the principal administrator. The commission of the local administrator and its advances and the costs of this motion, which may be paid out of the estate by it, must be repaid before it can be called upon to convey. The foreign infants must look to their guardian to protect their interests. I do not approve in any way of the proposed arrangement, nor do I express any disapproval. In my view this is entirely a matter for the principal administrator, which must assume the entire responsibility. The administrator in Ontario is ancillary only and as soon as the Ontario creditors are paid, the principal administrator is supreme. Order accordingly.

Farmers' Bank v. Todd—J. W. Bain, K.C., and M. L. Gordar for liquidator of Farmers' Bank. W. G. Thurston, K.C., for Conger Coal Co. A. C. McMaster for Steele Briggs Seed Co. An appeal by the liquidator of the Farmers' Bank from the award of arbitrator.

Judgment: The Farmers' Bank had authority to receive money and had no authority to substitute their own liability as debtors. What was done they had no right to do, and Todd and Clark never paid the notes. They asked the Farmers' Bank to do so for them and the bank undertook to do so. Had it complied with its undertaking no dispute would have arisen. The liquidator's appeal must be dismissed with costs. The cross appeals must be allowed. The arbitrator had no right to make the successful parties pay the costs as he has done by allowing them to be deducted from their fund. The award must be amended in this respect by directing the liquidator to pay the other claimants (Conger Co. and Steel Briggs) $100 for costs of the arbitration, which their counsel said they would themselves apportion, and the costs of the cross appeals. One order only should issue.

Re Goldfields and Harris Maxwell Co.—G. H. Kilmer, K.C., for Goldfields. F. E. Hodgins, K.C., for Harris Maxwell Co. A motion under section 116 of the Companies' Act for a mandatory order directing the Harris-Maxwell Co. to enter the Goldfields Co. as shareholders in respect of a large number of shares transferred.

Judgment: As an action is pending in which the transfer from Mason and Patterson are attacked no order should be made, but this is without prejudice to any new motion when the actions are over. With reference to the other transfer I think the position taken by the company is untenable. These shares paid up and non-assessable, are property and may be freely transferred, and the company has no right to object to the transfer. The form of transfer provided by the company must be taken as the form approved by the directors and if the signature of the transferee is necessary the transferee is ready to sign the book, but is not permitted by the company to do so. There was implied authority to complete the transfers. The affidavit of Mr. McKay is sufficient to cast the onus on the company. Order to go for a mandamus, and if the signature of the transferee is necessary, it is understood that this covers the permitting of the transferee to execute the transfer book. The company must also pay the costs.

Fraser v. Woods—F. Aylesworth for plaintiff. H. E. Rose, K.C., for defendant. Motion by plaintiff for an order restraining defendant from entering upon the strip of land in dispute, or tearing down buildings, etc., thereon. Order continuing injunction to trial. Costs in cause unless trial judge otherwise orders.

Divisional Court.
Before the Chancellor, Latchford, J., Middleton, J.

Summers v. Blair—M. K. Cowan, K.C., for defendant. A. Slaght (Haileybury) for plaintiff. An appeal by the defendant from judgment of Falconbridge, C.J., of April 8, 1911. Plaintiff, a dentist of New Liskeard, lessee of defendant, brought action to recover $5,000 damages for alleged wrongful and malicious seizure and sale of plaintiff's goods and chattels for rent claimed as overdue. At trial plaintiff recovered judgment for $350, with such costs and set off as the law and practice direct.

Judgment: Appeal dismissed with costs on the county court scale.

Before Riddell, J., Latchford J., Sutherland, J.

Re Angus and Township of Widdifield.—J. M. Fergusson for Angus. W. H. Irving for Widdifield and North Bay. An appeal by applicant, Angus from the order of Meredith, C.J., of 12th December, 1910. The order complained of dismissed applicant's motion to quash bylaw No. 180 of the municipalities of Widdifield, to provide funds for certain improvements.

Judgment: We think the appeal must be allowed and the bylaw quashed. Had the township consented, to this it might well have been without costs, but the extraordinary position taken by the township which we confess our inability to understand, namely, agreeing not to act upon the bylaw but insisting that it is not to be quashed, justifies us in directing that the respondents pay the costs of this appeal and before the chief justice.

Case v. Fiegehen.—R. S. Cassels, K.C. for plaintiffs. M. H. Ludwig, K.C., for defendants. An appeal by plaintiffs from the judgment of the 4th Division Court of Simcoe of 12th May, 1911. An action on a promissory note claiming $192. Defendant counterclaimed for $200. At trial both claim and counterclaim were allowed, but counterclaim only to extent of plaintiff's claim, and plaintiff's action was dismissed.

Judgment: Defendant brings under a contract which expressly provides that the company assumes no liability for non-shipment. All the damages he can claim for are covered by these provisions of his contract, and we think the findings of the jury cannot help him. The appeal should be allowed and judgment entered for the plaintiff for the amount sued for and the counterclaim dismissed, all with costs.

SEAMEN'S STRIKE OVER.

SOUTHAMPTON, Eng., June 23.—The strike of seamen which has seriously inconvenienced many of the shipping lines, particularly at the English ports for several days, was finally ended to-day when the employes of the White Star Line accepted the terms of the company and returned to work. The other lines had already compromised with the strikers.

Liquor Shop Transferred.

The license commissioners yesterday approved the transfer of the liquor shop license at 69 Augusta-ave., from David J. Murphy to William B. Srigley the cash consideration being $18,000. No objection to the transfer was made.

The Toronto World

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