The Toronto World

FOUNDED 1881.

Morning Newspaper Published Every Day in the Year.

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BUSINESS MEN APPROVE.

In the overwhelming approval of the business men of the city is to be found the best answer to the objections of opponents of the Bloor-street viaduct and the tube railway system. Those who oppose these plans are persons identified with the electric and street railway corporations and their friends.

Among those who have told The World of their approval of the viaduct are John Firstbrook, president of the Firstbrook Box Co.; ex-mayor Thomas Urquhart, Miles Vokes, S. R. Kennedy of the Kennedy Hardware Co., A. E. Kirkpatrick, U. S. Fidelity and Guaranty Co.; S. R. Hart, Hart & Riddell; J. D. McMurrich, John Sloan, the wholesale grocer; Andrew Wilson, wholesale cigars; Chas. Murray, the W. A. Murray Co.; Wm. Dineen, of the W. & D. Dineen. These are only representative of the great body of opinion in the city which the corporation and little village press is striving to override.

LITTLE EVA'S WAY.

Here is Little Eva's way of putting it:

"The underground railway scheme we do not believe in. We do not expect to see a tube system operating here for many years—no matter what Controller Hocken says, and no matter what offers, on behalf of unnamed clients, firms of lawyers may address to the mayor. But the tube talk seems to have its uses. It is said that it caused Mr. Fleming to shiver. He certainly looked up, as if he found himself sitting in a draft. And he spoke as if from a desire to conciliate opinion outdoors. If talking about tubes can produce a shivering on the part of the manager of the Street Railway Co., or can cause William Mackenzie to turn aside from the problem of gridironing the Dominion with steam railways to the nearer problem of making the dwarfed and neglected car service of Toronto what he is under obligation to make it—an adequate service—then the talk will have served a good purpose."

This effort to appease the people who see the obvious advantage of a tube system for Toronto, and to sandbag the scheme at the same time in the interests of the street railway constituency is thoroly characteristic of The Star. Of course it is duplicity, and two-faceedness, and double-dealing and the people see thru it, but The Star fancies that a great many people will be deluded. Besides this, such an attitude soothes the Little Eva conscience.

TUBE ARGUMENT UNANSWERABLE.

So obvious are the tube arguments that not even the Street Railway Company organs have the temerity to oppose them. Grief and fears are in the hearts of the directorate ensconced at the junction of King and Church. They wanted to build that tube system themselves. It would have been a fine adjunct to an extended franchise. As an adjunct to an expropriation scheme, it is nothing but a tribulation to the gentlemen of the directorate. They want the people to believe that it would be a tribulation for the city if a tube system were built to bring the citizens in from the suburbs in 15 or 20 minutes.

But to be really effective a tube system must be linked with the surface system, and to have that the city must expropriate the present franchise or franchises. Then for one fare the citizens may travel from any one point inside the city limits to any other point, instead of having to pay three fares as is now sometimes necessary.

GERMANY AND THE BRITISH ELECTION.

No country will await the verdict of the British electorate at the approaching general election with so intense, indeed feverish, anxiety as Germany. The United Kingdom is Germany's best customer, taking over 20 per cent. of its total exports, chiefly, sugar, woolens, woodenwares, cottons, silk stuffs, leather goods, Billot and pig iron and iron goods. Britain only supplies, however, 11 1-2 per cent. of Germany's imports, the principal items being coal, yarns, gold, hides, india rubber, salted herrings, raw silver and wool. Thus, while Germany's exports to Britain are mainly manufactured articles, which will be subject to duty should tariff reform win, its imports from Britain are mainly the coal and raw material needed by its manufacturers. Germany cannot, therefore, but suffer severely by any change in the fiscal system of the United Kingdom.

During the war of recrimination that raged between British and German newspapers and magazines, frequent reference was made to the trade relations of the two nations. In an article appearing not long ago, Dr. Gerhardt von Schulze-Gaevernitz, pro-rector of the University of Freiburg, admitted that the English market is to-day more important to Germany than the German is to Great Britain. Another German contributor to the discussion went further and declared it to be so important that Germany, if she were ready, would even take extreme measures to prevent it from being closed. Germany, like Britain, is now preponderately a manufacturing and exporting nation, and cannot afford to hinder the influx of coal and raw products so that her retaliatory power in a tariff war is considerably crippled by the nature of the trade exchange. A British Conservative Government is also certain to accelerate the naval increase necessary to maintain British sea predominance, and these two considerations render German interest in the pending general election peculiarly intimate and active.

TORONTO TEACHERS AND THE SUPERANNUATION SCHEME.

Considerable opposition has been aroused to the proposal having for its object the establishment of a superannuation scheme in connection with the Toronto school teaching staff. It has been exhibited chiefly over the request by the board of education for information similar to that required by insurance companies, and quite a number of teachers, not all of the female persuasion, have declined to furnish the data required. While the object of the scheme is in itself laudable, several arguments, none without reason, are advanced against the formation of a sectional superannuation system, such as one limited to Toronto would certainly be. Nor has it been made clear whether the plan, should it be formulated, is to be imperative or optional only or whether it contemplates the case of those who are already making provision either by way of government annuity or ordinary insurance policy.

Among the objections urged are that the Ontario Government is engaged in considering a superannuation scheme applicable to the whole province; that the proposal does not provide for the probable contingency of teachers either removing from Toronto for outside schools or abandoning the profession for other than physical disability, in which events, it is said, they will have no right to the refund of their contributions. A government scheme, it is represented, would permit of transfers from any school in the province to another and would in addition give the privilege of continuing in it irrespective of a change in the character of the employment. Contrariwise, the board scheme necessitates continuance in Toronto or forfeiture both of the benefit and the amount of the contributions.

Specially on behalf of women members of the staff complaint is made that the minimum salary is only $500 a year, which after deduction of bare living expenses only permits of a relatively small sum for books, clothing and other necessary outlays. Again, it is said, under the proposal teachers who retire before the age of 50 receive no allowance and do not even get a refund of their payments. These and the other objections noticed appear to be deserving of consideration, but they are really inherent in any superannuation scheme of limited extent. That is the main weakness of the board's position and it is difficult to see how it can be got over without hardships in particular instances which ought not to be entailed. Anyhow, the proposal is not one which should be rushed or indeed persevered in, unless it can be made thoroly acceptable to the teaching staff as a whole. A provincial system certainly seems a more desirable solution.

ONE BRITISH VIEW.

Saturday Review, Nov. 20: Sir Wilfrid Laurier, in his reply on the address on Monday, put Mr. Monk, the anti-imperial Canadian Conservative, in his place with much vigor. The sentiments expressed by Sir Wilfrid towards the empire and British connexion were unexceptionable, and the empire will be grateful to him for his testimonial to its good influence and greatness. These were all generalities. There was one little particular—concrete policy—which did not quite agree with these imperial sentiments. "Canada would have a navy, and that navy would not go to war unless the parliament of Canada chose to send it." This is flat separatism. A navy on which the imperial government cannot count in a war with a foreign country is no part of an imperial navy; it is not imperial in any sense. It is a local force that has no more essential connexion with the empire than a foreign navy. It is said that Australia too is thinking of a local navy unattached to the empire. These are not pleasant signs.

WAS A "BLACK SHEEP"

Parents of Reid, Murdered in N. Y. State, Live in Collingwood.

COLLINGWOOD, Ont., Dec. 3.—John Edgar Reid, who, according to despatches, was murdered in Pulaski, N. Y., last night was the son of Mr. and Mrs. John Edward Reid, was born in 1888, and came to this town with his parents some years ago.

This morning his father expressed little surprise on hearing that his son had met an untimely end.

On the books of the local police magistrate there is a conviction for theft registered against the young fellow. He left the town last year, and his people heard little of him from that time till now.

CALL TO PASTOR.

THORNBURY, Dec. 3.—At a joint meeting of the congregations of Thornbury and Heathcote held this afternoon it was unanimously agreed to extend a call to Rev. N. Campbell, M.A., Oro station.

As the Grand Trunk Railway System is in touch with several good openings for those who desire to purchase summer resorts, opportunities for business locations, manufacturing plants, etc., anyone interested who will apply to Mr. W. P. Fitzsimons, Commissioner of Industries, Grand Trunk Railway System, Montreal, can secure full particulars.

AT OSGOODE HALL

WIN FOR HYDRO-ELECTRIC IN FELKER TEST CASE

Plaintiff Refused Permission to Plead That Act is Ultra Vires.

ANNOUNCEMENTS.

Peremptory list for divisional court for Monday, Dec. 6, at 11 a.m.:

1. Smith v. Loudon.
2. McAlpin v. Fleming.
3. Stockwell v. Doty.
4. Gunn v. Miller.
5. Crown Art v. Cooper.
6. Reid v. Toronto Railway Co.

Non-Jury Assize List.

Peremptory list for non-jury assize court, Monday, Dec. 6, at city hall, at 11 a.m.:

Pigott v. Goderich and Guelph Railway (continued).

Writs Issued.

David Sandeman and Co., Limited, of Leicester, England, have begun an action against W. Beattie Nesbitt of Toronto for $1706, "under a guarantee whereby the defendant agreed to indemnify the plaintiffs from all loss in the purchase of thread for the Dominion Thread Mills, (Limited), and goods on account of the Dominion Thread Mills, Limited."

The Charlton Sawmill Company, Limited, of Collingwood, and Annie McColeman of Ford River, Mich., are being sued for damages for negligence on the part of the company. The plaintiffs are Christina and Hugh McColeman of Collingwood on behalf of grandchildren.

Gordon S. Barr is suing Herbert P. Ritchie for a partnership accounting. Both live in Toronto.

Master's Chambers.

Before Cartwright, K.C., Master.

Felker v. McGuigan—A. W. Ballantyne, for defendants other than the McGuigan Co., on motion to strike out the last five paragraphs of reply as embarrassing. R. H. Parmenter for the McGuigan Co. J. H. Moss, K.C., for plaintiff. Judgment: The action is for trespass to plaintiff's land arising out of the construction of a transmission line for the hydro-electric commission.

It is quite plain that these five paragraphs seek to raise an interesting and important question as to the rights of the Province of Ontario over the waters of the Niagara River, but the test of the present motion is whether they are relevant to the present action, i.e., whether they furnish any answer or the alleged grounds of defence and or justification of the trespasses complained of, or in any way constitute a part of the plaintiff's cause of action.

The defendants rely on the powers given to the commission. The plaintiff replies in the first six paragraphs that the commission has not obtained her consent to enter on her lands, and denies that the legislature has given any right to the commission to expropriate her lands without her consent.

These contentions give sufficient answers to the defence of justification . . and the five paragraphs complained of should be struck out.

In the light of Florence Mining Co. v. Cobalt Lake, 180 S.R., 275, under the statutes it would appear that the commission has the power attempted to be exercised in this case, but whether the terms have been complied which is a further question which will be decided in due course. As the matter is novel as well as important, costs will be in the cause, as was ordered by Meredith, C. J., in Smith v. London.

Beatty v. Beatty—T. N. Phelan plaintiff on motion for interim alimony and disbursements. E. G. Long, for defendant, contra. Judgment: The motion was argued on Nov. 22, but judgment was reserved until the plaintiff had been examined for discovery. This has been done. The defendant relied on an agreement of separation made in 1898, under which plaintiff was to be paid $100 a year for the ensuing five years and $200 a year for the support of the children. Plaintiff swears that she never was paid anything and that she did not understand the agreement and alleges enough to entitle her to the order. The order will provide for $6 a week from Oct. 11 and $30 or such sum as may be agreed on for interim disbursements.

Linton v. Dunnigan—M. Macdonald, for judgment creditor, moved for an attaching order. Order made.

Canadian Street Car Advertising Co. v. City of Port Arthur—Z. Gallagher, for plaintiffs, moved ex parte for nunc pro tunc order setting aside noting of pleadings as against certain defendants. Order made.

Webb v. St. Mary's and Western Railway—C. A. Moss, for defendants, moved for order for better particulars so as to specify to which demand they are applicable. W. R. Wadsworth, for plaintiff, contra. Reserved.

Atkinson v. Casserly—Grayson Smith, for plaintiff, moved for order postponing trial on ground of absence of material witness. F. McCarthy, for defendant, contra. Order made. Costs in cause. Leave to defendant to move to change venue to Toronto if so desired.

Re S. O. E. and Pickering—S. W. Burns, for society, moved for leave to pay $100 into court. F. L. Bastedo for widow of beneficiary. G. H. Plaxton for brothers and sisters of deceased. Order made for payment into court, less costs fixed at $12. Enlarged for two weeks to see if a settlement can be reached of this small sum.

Rechar v. McDowell—J. King, K.C., for defendant, moved to strike out paragraphs 8, 9 and 11 of amended statement of claim, or for particulars in action for slander. A. McL. Macdonell, K.C., for plaintiff, contra. Reserved.

Fobert v. Fobert—T. M. O'Higgins, for plaintiff, moved for interim alimony and disbursements. T. N. Phelan for defendant. Order made for payment of $8 per week from date of issue of writ, and interim disbursements to be settled hereafter.

McColeman v. Charlton Sawmill Co.—G. A. Kingston, for plaintiffs, moved for an order for the issue of a concurrent writ and for substitutional service. Order to go on filing better affidavits as to residence of absent defendant.

Webb v. St. Mary's and Western Railway, No. 1—W. R. Wadsworth, for plaintiff, moved for an order for inspection of property in question. C. A. Moss for defendant. Order to go for inspection at a time to be arranged between the parties.

Webb v. St. Mary's and Western Railway, No. 2—W. R. Wadsworth for plaintiff, moved for an order for further examination for discovery. C. A. Moss, for defendants, contra. Reserved.

Judge's Chambers.

Before Teetzel, J.

Re Dowling.—J. T. White, for applicant, father of infant. J. R. Meredith, for official guardian. Judgment: This was an application for payment out of court of money standing to the credit of an infant which was paid in under the direction of a judge of the surrogate court on passing accounts of the executor of will of late James Dowling. The testator bequeathed to the infant, William Loyal Dowling, son of the applicant, the sum of $500 to be kept out at interest until he becomes of age. Then follows this clause: "I devise William James Dowling to be paid the $500 willed to his son, William Loyal, above, and he to be his guardian and to keep this money at interest as above mentioned." I think in this case the money should not have been paid into court, but that the will of the testator should have been respected and the legacy paid to the applicant in accordance with the wish and direction of the testator, in the absence of strong reasons for not doing so. The application is granted. Costs out of the fund.

Before Latchford, J.

Re Francis Jones, lunacy.—F. Aylesworth, for committee, moved for confirmation of report of local master at Whitby, dated Nov. 29, 1909, and for payment thereunder. No one contra. Order made.

Re W. C. Young.—J. D. Falconbridge, for Ellen Young, moved for order for payment out of court to her of $100. F. W. Harcourt, K.C., for infant. Order made.

Re Phillips and Argyle.—R. B. Beaumont, for applicant, asked enlargement of his motion until first chamber day after vacation. Enlarged until Jan. 7.

Re Waters.—G. Lynch-Staunton, K.C., for applicant, moved for payment of $571.42 out of court. F. W. Harcourt, K.C., for infant. Order made.

Re J. Platt.—C. A. Moss, for T. G. T. Corporation, moved for the discharge of a certain charge and allowing sale of property. F. W. Harcourt, K.C., for infant. Order made.

Re Dartnell, lunacy.—D. W. Saunders, K.C., for Trusts Corporation, moved for the appointment of J. A. C. Cameron as official referee in the place and stead of Neil McLean, deceased. No one contra. Order made.

Re Beard, lunacy.—T. D. Delamere, K.C., for committee, moved for confirmation of report of master in ordinary of June 30, 1909, and for payment out pursuant thereto. No one contra. Order made.

Re Rozel.—W. H. Hodges, for administrator, moved for an order for payment out of certain moneys in court to which adults are entitled, and for payment to infant at majority. F. W. Harcourt, K.C., for infant. Order made.

Re Pos lunacy.—W. D. Gwynne, for Royal Trust Co., moved for an order declaring lunacy. No one contra. Order made. Royal Trust Co. appointed committee. Reference to master in ordinary to arrange scheme for maintenance. Costs out of estate.

Re Cousins.—J. E. Jones, for applicant, moved for payment of certain moneys out of court. F. W. Harcourt, K.C., for infant. Order made subject to approval of official guardian as to age, etc.

Re Morrison.—F. W. Harcourt, K.C., for infant, moved for an order for payment out of court of certain moneys to mother for maintenance. Order made for payment with privity of official guardian.

Re McLaughlin Trusts.—H. S. White, for adult beneficiary, moved for payment out of court of certain moneys. No one contra. Order made for payment for maintenance and for payment of shares at infant's majority.

Eby v. Hamilton.—J. B. Clarke, K.C., for plaintiffs, moved for payment out of court to plaintiff of $1096.75, paid in under order of surrogate judge, or for direction to sheriff of City of Toronto to apply on writ of execution, or for administration of estate of R. Hamilton, deceased. F. W. Harcourt, K.C., for infants. R. B. Beaumont, W. Proudfoot, and A. J. Keeler appeared for different creditors. H. Ferguson, for administrator, contra. Order made referring matter to J. A. C. Cameron, official referee. Costs out of estate.

Rogerson v. Meade.—C. M. Garvey, for plaintiff, moved for order confirming settlement. F. W. Harcourt, K.C., for infant. To be spoken to again.

Yeung ah Ying.—H. J. Mickle, for beneficiaries, moved for apportionment of moneys recovered under judgment. F. W. Harcourt, K.C., for infant. Order made.

Re Wilson Reid v. Jamieson.—D. Guthrie, K.C., for adult beneficiaries, moved for an order declaring one William Morice to be presumed to be dead. F. W. Harcourt, K.C., for absentee. The clerk in chambers to settle advertisement and parties to advertise in Denver newspapers for four weeks.

Wishart v. Harris.—J. M. Ferguson, for defendants, appealed from order of master in chambers. J. F. Boland, for plaintiff, contra. Enlarged for one week to allow settlement, if possible. To be spoken to before the judge in this chambers again then.

Single Court.

Before Mulock, C.J.

Paine v. The Norfolk Gas Co.—J. W. Bain, K.C., for plaintiff, moved ex parte, for an injunction. Injunction granted restraining the defendants E. S. Hicks, J. S. Allen, and Hugh Allan and each of them until 9th December, from acting as directors of the defendant company, and restraining the defendant, E. S. Hicks, from acting as manager of said company, and restraining him from receiving payment from the defendant company of any sum of money as manager of the defendant company, with leave to file and use further material on return of motion.

Before Teetzel, J.

Saskatchewan v. Leadley.—G. Kappele, K.C., and C. Kappele, for the Leadleys, appellants. A. B. Cunningham (Kingston), for plaintiffs. A. J. R. Snow K.C., for defendants, the Moores. Judgment: An appeal from several rulings of the master in ordinary upon the reference directed to take the mortgage accounts. Upon the hearing I disposed of many of the items of the appeal, but reserved a number of others, which I now dispose of. 1. The question of compound interest. With great respect for the opinion of the master, I think the language of the covenants here distinguishes this case from the Imperial Trust Company case, and is sufficiently comprehensive to show that the parties intended compound interest should continue to be computed, not only during the term of the mortgage, but during the continuance of the security. Upon this item the appeal should be allowed. 2. Question of appropriation of payments I am unable to say that the master has erred. Appeal on this item dismissed. 3. Item of $4600 surcharge. The appeal on this item will be allowed. 4. Item of $3279.22 surcharge. The appeal on this item allowed. 5. Items of $800 and $441.87 surcharges appeal as to these dismissed. 6. Claim for compensation during 1900 and 1901, appeal as to this dismissed. 7. Claim for annual allowances. Allowance by master quite ample, appeal dismissed. 8. It was agreed upon the argument that the ruling of the master as to the apportionment of costs should be struck out, as the questions involved were matters for the taxing officer under the judgment. I make no order as to the costs of these appeals, but if the parties desire, this question may be spoken to before me again.

Before Latchford, J.

Sir Aemilius Irving, K.C., treasurer of the Law Society for Upper Canada, presented the following gentlemen to the court who have been called to the bar by convocation, and they were sworn in and enrolled as barristers-at-law and solicitors of the supreme court of judicature for Ontario, Stuart Bruce Van Kleeck, Freeman Ferrier Treleaven, George Edgar McCann, Mr. Alan C. Mackintosh (previously called to the bar), was also sworn in as a solicitor of the supreme court of judicature.

Hogan v. City of Brantford.—W. T. Henderson (Brantford), for the city. W. S. Brewster, K.C., W. E. Middleton, K.C., for plaintiff. Judgment: An application under C. R. 261 to strike out statement of claim on the ground that it discloses no reasonable cause of action. The pleading moved against sets forth that plaintiff is a ratepayer of the City of Brantford, and brings the action on behalf of himself and all other ratepayers and electors of Brantford to have bylaw No. 1015 of the corporation declared ultra vires, and quashed, because the electors have not sanctioned the moneys necessary to be expended in connection with same. . . . The bylaw is not, I think, invalid because not sanctioned by the electors. . . . Having regard to the provisions of the bylaw, and the power of the municipality in the premises, I am of the opinion that the pleading discloses no cause of action and should be struck out with costs. The plaintiff may, if he so desires, file an amended statement of claim within one week.

Gun Went Off.

KINGSTON, Dec. 3.—(Special.)—While lifting shotgun from his boat at Big Bay, James Berry, a resident of Wolfe Island, accidentally discharged the gun: receiving the shot in his left hand and part of his body. He will lose his hand.

The death occurred in the General Hospital of Miss Flora Smith, youngest daughter of the late Rev. Dr. T. G. Smith, Kingston, after a long illness.

EATON'S DAILY STORE NEWS

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Handsome brocades and velvet jackets, rich patterns, in neat, quiet colorings, or the brighter effects, silk lined throughout. At **$12.50, $15.00** and **$18.00.**

MEN'S DRESSING GOWNS, in a variety of patterns, camel hair effects, mottled or checked in warm colorings, full length, with cord trimmings on edges and pockets and heavy girdles to match; sizes 36 to 48. Price **7.50**

MEN'S GOWNS, in soft clinging camel's hair effects, greys, browns and greens, self or checked patterns, with handsome contrasting trimmings of plaid, same as the revers linings. At **$10.00** and **$12.50.**

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