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FRIDAY MORNING, MAY 12, 1911

A PROGRESSIVE PROGRAM.

Among the new men who were elected to the United States governorships none has won so high a place as Mr. Woodrow Wilson of new Jersey. Confronted with a legislature not so much overtly hostile as largely unsympathetic he succeeded by the sheer strength of his personality, in procuring assent to all the measures he had pledged himself to support. These were all of a highly progressive character and quite in keeping with the general tenor of his public addresses. The last of these was delivered on Monday at the banquet of the Chamber of Commerce of Denver, Colorado, when he again foretold the enactment of the thoro program of popular reform. Its objects, he said, were known very definitely. The first was the opening up of all the processes of United States politics and to substitute public for private machinery.

Second to that the governor placed the withdrawal of privacy in the conduct of public business. That proceeded from the principle that those who make use of the great modern accumulations of wealth, gathered together by the dragnet process of the sale of stocks and bonds,shall be treated as public trustees, that they shall be made responsible for their business methods to the great communities which are, in fact, their working partners. Next to this the governor put conservation of natural resources and in the fourth place the cutting out of all privilege and patronage out of the country's fiscal system and the equalization of the burden of taxation. Summing all up he declared the ultimate purpose to be the throwing open the gates of opportunity to every citizen. Such a program is an embodiment of the democratic spirit and its achievement would be a beneficent revolution which cannot arrive too soon for the people of the United States.

SUNDAY USE OF LIBRARIES.

In proposing the opening of the Reference Library for three hours in the afternoon of Sundays, the weakest possible case is proposed for the movement. Even these three hours will be violently opposed by those who have been trained to believe that Sunday is an idol to which all the world must bow down. Idolatry of this description is as demoralizing as any other form of idolatry, and has the same evil results. But in the meantime it is a factor to be reckoned with. The desirability of opening the library in the afternoon when students might be more healthily employed taking a walk is problematic. But if a student prefers to read rather than walk, there is no apparent reason why he should not have the choice, except for the idolatry which denies the right to do either. Some of the idolaters consider it legitimate to walk but not to read, and others think it may be permitted to read at home, but not in a library. Such are the hairsplitting refinements of idolatry.

The real difficulty to be met is the employment of the attendants. We thoroly agree with the idolaters that the worker should have a clear day in the week off. This is not a matter of idolatry except so far as it is governed by superstition. All the days of the week in turn have been held as sacred as our Sunday is, the Buddhists observing Wednesday, the Mahommedans Friday, the Jews Saturday.

What is needed is to increase the library staff by one-seventh, and open the institution on Sunday from two till ten in the evening at least. It is absurd to put libraries under the same restrictions as saloons and bars.

FIRE PROTECTION.

Edinburgh supplies another argument for greater care in the supervision of public places of amusement. The Empire Music Hall had been selected as the scene of a command performance before the King, and must have been regarded as properly equipped. So far as the audience was concerned the protection of the fire curtain was effective. It was not, however, supported by metal fittings and, subsequently fell over the stage. There is a suggestion in this for the local authorities. The exits were evidently good as the audience had no difficulty in getting out.

One of the crimes for which the heads of our fire department, or whatever other authority is responsible, may be tried some day in Toronto, is the permitting of theatres to keep their exits closed during performances, and in some cases to have these exits mere "dummies" leading nowhere.

ONLY ONE COURSE.

Chairman Levee has been guilty of a grievous error of judgment which he only aggravates by his attitude towards the school board. It is perhaps the failing of our democratic condition that we get a false estimate of the value of nominal position, and it may be natural to place a false emphasis, with this point of view, upon the importance of holding out in the face of opposition. But Mr. Levee will only alienate sympathy by such a course.

It is quite conceivable that he adopted the course criticized by Judge Winchester in the ordinary spirit of the Toronto man of business, and without any thought of exceeding the limits of discretion or of good taste. But when the situation is made clear, as in Judge Winchester's report, Mr. Levee will consult his own reputation for good sense as well as for good taste by complying with the usage universal in such cases.

An error is easily forgiven to the man who acknowledges it, but an error may become a much more serious affair when its correction is met with defiance. There are still some things which a gentleman cannot do.

MELON CUTTING AND THE PUBLIC

Yesterday The Globe had another of its fallacious editorials decrying the idea that a railway or other company can make wealth for itself by a resolution of its board of directors. "If stockholders," it safely observes, "cut up a melon among themselves, they must furnish the melon. Neither the creation of fictitious capital nor the issue of capital at rates below market quotations can create wealth or take wealth from the public."

To show how unfounded these arbitrary assertions are it is only necessary to recall what happened in the case of the last issue of Canadian Pacific Railway stock. In 1909 that company was granted power to issue an additional $50,000,000 of ordinary stock to its shareholders at par. The market price during that year varied from 166 to about 189, showing a very substantial melon to begin with. In November, 1909, $30,000,000 of the new stock was offered the shareholders at 125, a concession to the public agitation against the practice of melon-cutting.

According to the view propounded by The Globe the issue of the $30,000,000 involved an impairment of the shareholders' interest in the railway and should have been followed by an immediate fall in the market price. But in December C.P.R. stock ranged from 178 to 182 and did not fall below 178 in the first three months of 1910. Yesterday the price of C.P.R. stock stood at 233, an appreciation of 51 points since the $30,000,000 issue in November, 1909. Any one of the fortunate shareholders, who received the benefit of that issue at 125, and sold now, could thus pocket from the public no less than 108 points. The whole transaction and all similar transactions are grossly adverse to the public interest and must be absolutely condemned.

Our literary censorship is proceeding. A big store in the city yesterday refused to take an order for Walt Whitman's "Leaves of Grass." Toronto is bound to look idiotic by hook or by crook.

Those public school trustees who may contemplate refusing to perform their duty should remember the penalty of $20 that can be sued for and recovered by any person whomsoever for the purpose of the board.

The Globe ascribes to The World the hope and enthusiasm of youth when it delivers wise lectures to Sir James Whitney on municipal taxation, and remarks that he can never be pried loose from his taxation delusions, but the province can from him. In whose favor—the reactionary leader of the opposition? The World has more faith in the premier's receptivity than in Mr. MacKay's Liberalism, so-called.

"FLYING POST" FOR THE EAST.

Editor World,—I was quite taken with your little editorial upon "The Flying Rollers," touching up The Globe and The Mail and Empire in regard to their individual stories about that early mail train to the west of Toronto, but why did you also omit to tell us exactly who is responsible for this glorious innovation? When you tell us the true story, would you also be kind enough to inform us why the blooming thing does not come east of Toronto? The papers reach Chatham, 183 miles west of Toronto, at 8.30 a.m., about the same time as they reach Oshawa, 33 miles east. It is past me to understand why all those progressive moves should spread from Toronto west and leave us in the east at all times neglected. Surely we are worthy of some consideration.

Oshawa, May 8. T. E. Kaiser, M.D.

SHAVE OR TRIM.

Editor World: We do not think His Royal Majesty King George the Fifth has any loyaler patriots under his crown than the members of the barber profession, and we do not think that any seaman, admiral or unadmirable, has a right to say that people should not get shaved in honor of His Royal Majesty King George, for there is just as much loyalty in a good lather and a clean shave as there is in a full beard and a trim once a month, so I say shave every day.

Hollow Ground.

TRANSMISSION CABLE STRUCK BY LIGHTNING

Winnipeg Power System Put Out of Business For Hours by Terrific Storm.

WINNIPEG, May 11.—Winnipeg was the centre last night of a violent electric storm that in the space of a couple of hours tied up almost every modern convenience driven or operated by electrical energy. It was a wild night, with a conglomeration of weather suitable to every season of the year, and vivid lightning flashes lit up the heavens even while hail and snow descended. At one stroke the lights of the city were snuffed out and the power transmission station of the Winnipeg Electric Railway was put out of business. Not a street car was running at 10.30. Officials of the company state that one of the transmission cables from Lac Du Bonnet was struck by lightning fourteen miles from the city, which resulted in the cutting off of the current.

The telephone lines were temporarily affected and the telegraph wires running into the city were damaged to such an extent that Winnipeg was all but cut off from the outside world. Over the few wires that were operated, however, came the gladsome news that the precipitation extended all over the province, and that on a million fields the moisture was sinking to the ground to generate life in the young wheat.

The rain started to come down late yesterday afternoon and since that time there has been a continuous downfall of hail, snow and sleet. The electrical storm broke about 2 o'clock and the reverberations of the thunder over the city were so loud as to waken the majority of the citizens. The hail that ascended at the time came in such volumes as to test the strength of window glass. This morning the unique sight of the trees all in leaf and the ground covered with snow was seen.

St. John's Observatory recorded 2.4 inches of rain last night, which is almost unprecedented here. Power was turned on again this afternoon.

TRENTON ON THE BOOM.

Editor World: None of the lake front towns between Toronto and Montreal have anything approaching the prospects Trenton has for a rapid advance commercially. With the main lines of four of Canada's largest railways running thru the town, and with the shipping facilities by water which are unsurpassed by any other Lake Ontario town, we feel justified in looking forward to a bright business future. The Canada Iron Mines Limited, which has taken over the Blairton, Coe Hill and Mineral Range mines in North Hastings, has purchased property here upon which to erect and operate a large concentrator plant, capable of treating 1000 tons of ore per day. The Canadian Pearl Button Company is another industry we have been successful in landing. This concern, organized by Mr. McWille, president of the Wisconsin Pearl Button Co. of Lacrosse, Wis., are now employing over 40 hands, and are at present putting in 24 new machines, which will require that number of new operators, making 64 hands employed in less than five months. Local capital was speedily secured for this very promising enterprise, and from personal knowledge I know that parties are, without solicitation, making requests for stock. It is hoped that the demand for the output will warrant the employment of 150 hands within a year from this date. The town council and board of trade are negotiating with the firm of Marsh & Henthorn of Belleville, with a view of getting them to establish their works here. It is certain that Belleville will not let this firm leave if possible to keep them, but the superior facilities for shipping and other inducements offered by Trenton are not likely to be ignored. The Canad'an Northern Railway is very much in evidence here these days. At present the rails are laid to the river, enabling the Hamilton Bridge Company to land the structural iron right at the work. This bridge is to be a very handsome one, and if the strike of the iron workers does not create too great a delay, should be completed by the end of June. It is expected that the road will be open for traffic between Toronto and Trenton by June 15 next. Considerable speculation is indulged in by the different towns claiming to be suitably located for the divisional point of this new line. Trentonians, of course, think that Trenton is the spot, for many cogent reasons, which they feel must appeal to the company. Real estate has during the last month been active, and some excellent prices have been realized. The portion of the town traversed by the C. N. R. appears to be receiving the most attention from the buyers. To rent or buy a first-class residence is almost an impossibility, and this summer houses must be provided for the people who are coming in, or the town's progress may be retarded. We have a certain delicacy in mentioning our cheap power to The World, but it has to be done. It is very nice power and very very cheap, and tho not controlled by the hydro-electric, we have no fear that it will be made more costly later on. Fifteen dollar power—without a string of any kind attached to it—twenty-four hour service,delivered at customers' terminals, for lots of 100 h.p. and over, is very attractive. The power house at dam 2, and the transformer house, are the latest and best equipped electrical power plants in Canada.

H. A. Thomson,
Manager, the Molsons Bank, Trenton.

10TH ROYAL OLD DRUM AND FIFE

Editor World: By way of thought, it started me thinking when reading a report in your worthy newspaper, of the 10th Royals having a fife and drum corps attached to the regiment. Being one of the first enrolled recruits of No. 3 company, would you kindly tell us what became of the first kettle drum, and fife, used in the regiment, and who played them. Feeling a remembrance of old times as one of a volunteer committee appointed to solicit the members to subscribe for the purchase of a snare drum.

Chas. W. Simpson, Old-Time Recruit.
Hamilton, May 6, 1911.

Bath Beaton's Estate.

Letters of administration have been filed in the estate of the late Bath Beaton, who died at Holland Landing on April 28 last. He leaves $8000, of which $5000 passes to his only daughter, Gladys Beaton, and the residue to the widow, Theresa Beaton, an inmate of the Mimico Asylum.

AT OSGOODE HALL

ANNOUNCEMENTS.

May 11, 1911.

Judges' chambers will be held on Friday, 12th inst., at 11 a.m.

Divisional court will not sit until Monday, 15th inst.

Peremptory list for court of appeal for Friday, 12th inst., at 11 a.m.:

1. Warren Gzowski v. Forst (to be continued).
2. Harley v. Canada Life Assurance Company.
3. Re Macdonald.

Notice to the Profession.

The secretary of the Law Society has posted notice that the society intends to repossess itself of all wardrobes on June 1, 1911, and reallot them as far as possible consistent with the accommodation of the whole profession.

All wardrobe users are required to register their names and the number of wardobe, with the secretary, before June 1, 1911, and file a duplicate key with him. After June 1 wardrobes will be allotted from year to year only, and no change in possession will be allowed without the knowledge of the secretary.

Master's Chambers.

Before Cartwright, K.C., Master.

Williams v. Long—A. B. Armstrong, for defendants. Motion by defendants, on consent, for an order allowing discontinuance of the action without costs and vacating certificate of lis pendens. Order made.

Morrison v. Scott—Davis (Kilmer & Co.), for defendants. Motion by defendants, on consent, for an order dismissing action without costs and vacating certificate of lien and lis pendens. Order made.

Macdonald v. Bammfelder—H. M. Mowat, K.C., for plaintiff. G. F. Burton, for defendant. Motion by plaintiff for judgment under C.R. 603. Order to go as asked.

Weir v. Weir—O. H. King, for defendant. A. J. Thomson, for plaintiff. Motion by defendant, under C. R. 1198 (d), for an order for security for costs. Reserved.

Stanbery v. Scown—Pickup (Masten & Co.), for defendant. Motion by defendant, on consent, for an order dismissing action without costs and vacating certificate of lis pendens. Order made.

Crinkley v. Mooney Biscuit and Candy Co.—Pickup (Masten & Co.), for defendants. Foley Brothers, Larson & Co. Motion by defendants, Foley Brothers, Larson & Co., under C.R. 1203, for an order dismissing action as against them, with costs. Order made.

Cleary v. Campbell—A. G. Ross, for defendant. Motion by defendant, on consent, for an order dismissing action without costs. Order made.

Lund v. Worthington—J. Mitchell, for plaintiff. Motion by plaintiff for an order allowing him to amend writ, as he may be advised. Order made.

Speedie v. Shier Lumber Co.—W. Laidlaw, K.C., for plaintiff. No one contra. Motion by plaintiff for leave to withdraw jury notice. Order made.

Single Court.

Before Meredith, C.J.

Re Jebb—A. Cowan (Bairrie) for vendor. D. A. McPherson, for purchaser. On application under the Vendors' and Purchasers' Act, and the question is as to the estate which the vendor, Charles Francis Bond Head Jebb took in the S½ of lot No. 1, in the 14th con. of the Township of West Gwillimbury, under the will of his uncle, Chas. Jebb.

Judgment: In my opinion C. F. B. H. Jebb, having attained the age of 20 years, took an estate in fee simple absolute in the land devised to him. There will be a declaration accordingly, and unless other disposition of them has been arranged between the parties, there will be no costs of the motion.

Munro v. Mitchell—T. N. Phelan, for plaintiff. G. T. Denison, jr., for defendant. Motion by plaintiff for judgment. At request of defendant, plaintiff consenting thereto, motion adjourned until 15th inst.

Smyth v. Manteufel—J. F. Boland, for plaintiff. J. T. White, for defendant. Motion by plaintiff for an order continuing injunction restraining defendant from interfering with plaintiff's mining operations on the land in question. Injunction continued to the trial if security for compensation given within two weeks. Injunction continued two weeks, and if security not then given, injunction will be dissolved.

Lund v. Worthington—J. Mitchell, for plaintiff. E. G. Long, for J. W. Langmuir. Motion by plaintiff to prevent transfer of property. No order made now, but motion enlarged for one week to permit service on the Worthingtons, who have not yet been served.

Re Adanti Estate—J. T. White, for administrator and father and mother. E. C. Cattanach, for official guardian. Motion by administrator under the Trustee Act, and under C. R. 938, for advice of court as to payment of certain moneys. Order made declaring that the father and mother are entitled to the $1060. No order as to costs except that the costs of the official guardian will be paid by the applicant. The amount to be fixed by the registrar in case the parties differ.

Re Robert John Hay—J. W. Payne, for applicant. Motion by Robert J. Hay for leave to sell lands free from dower, his wife having deserted him many years ago. It appearing that the land has been sold and that the application under the statute can only be made by the purchaser, and only on certain conditions, no order made on this motion.

Before Latchford, J.

Hessey v. Quinn—F. E. Hodgins, K. C., and J. T. Mulcahy (Orillia), for plaintiff. A. E. H. Creswicke, K. C., for defendant. An appeal by plaintiff from the report of the local master at Barrie.

Judgment: Appeal dismissed and report affirmed with costs.

Divisional Court.

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

Re McAllister—E. D. Armour, K.C., for H. McAllister. J. Meredith, for official guardian. E. F. Lazier (Hamilton), for executors. An appeal by H. McAllister from the order of Riddell, J., of Feb. 6, 1911. The order complained of was made on an originating notice for order construing the will of John James McAllister, and declared that Harmon McAllister had a vested estate in an undivided one-third share of the estate of said J. J. McAllister, expectant on the death of Sarah McAllister, to enjoy the rents and profits during life and to hold corpus for his heirs.

Judgment: The will, if construed according to the testator's intention, keeps distinct the two estates vested in Harmon held by him in a dual character: one his legal and beneficial estate for life, and the other the dry legal estate in remainder, held in trust for the person who should turn out to be his heirs at his death. These two estates cannot be made to merge or coalesce by the operation of the rule of law in Shelly's case. However, according to our best judgment, the result reached by Riddell, J., is right, and ought not to be disturbed. There will be no costs of the appeal except those of the infant to be paid out of the estate.

Before Meredith, C.J.; Teetzel, J.; Clute, J.

Re W. H. Hunter Estate—E. D. Armour, K.C., and W. C. Mackay, for D. I. and A. H. Hunter. S. Denison, K.C., for R. Hunter. C. R. McKeown, K.C., for executors. J. M. Kearns (Arthur), for adult children other than appellants. J. R. Meredith, for infants. An appeal by D. J. Hunter and A. H. Hunter, from the order of Middleton, J., of Jan. 7, 1911. The order appealed from was made on an originating notice under C. R. 988, for an order construing the will of William Henry Hunter, and the appellants appeal therefrom in so far as it affects the interests of the appellants in the residue of the estate of deceased. Argued and judgment reserved. Judgment: The testator knew he had made a codicil amending his original will by increasing the legacy to $7000, and in using the word "will" in the revocation clause of the second codicil, it must be assumed that he had the first codicil in his mind and intended to revoke the legacy for the increased amount, and not a legacy which he had already revoked. The judgment will, therefore, be affirmed, with a further declaration as regards David John Hunter, that he is entitled to a share of the residuary estate of the deceased in the proportion which $2000 bears to the total pecuniary legacies $28,500, and not in the proportion which $7000 bears to the same. Costs of all parties out of the estate, those of executors between solicitor and client.

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

Kennedy v. Kennedy—A. J. R. Snow, K.C., for plaintiff. E. D. Armour, K. C., for defendant, James H. Kennedy. Defendant, Robert Kennedy, appeared in person. An appeal by plaintiff from the judgment of Latchford, J., of Jan. 20, 1911. This was an action by Madeline Kennedy for the interpretation and true construction of the will of David Kennedy, and the rights of all parties interested therein ascertained and declared, and for the administration of testator's estate under direction of the court. The judgment complained of declared that the bequest of the part of the residue to plaintiff by said will was void, that the plaintiff has no interest in the estate of David Kennedy, and dismissed her action as against defendant, James H. Kennedy, with costs. Appeal argued. Judgment reserved. Judgment: We have no doubt the judge would have been quite justified in refusing to act under this rule, but we have equally no doubt that he had the power so to do, and that having done so, his judgment cannot be set aside unless it is wrong in law, "Quod non fieri debet, factum valet." But the case has not been argued on the merits, and we think the plaintiff should have an opportunity if she is so advised, to argue the law. The case of Foxwell v. Kennedy involves the same will—the argument in that case has not been completed, and if the plaintiff in this action is so advised, she should be allowed to make her argument upon the law when Foxwell v. Kennedy comes on for argument on May 15. Costs of the present argument reserved.

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

Hall v. Shiell—J. L. Rose, for defendant. W. C. Mackay, for plaintiff. An appeal by defendant from the judgment of Middleton, J., of Nov. 29, 1910. An action on promissory notes. At the trial judgment was awarded plaintiff for $2801-18 and costs. Judgment: In view of the new evidence and of the suspicious circumstances it might well be that a different finding would be made, and upon a new trial all the facts left in the air as to the arbitration, etc., may be cleared up. We think a new trial should be ordered, at which it is to be hoped the parties will be able to agree that the evidence so far should stand, to be supplemented as either party may desire. Costs of the former trial to be in the discretion of the trial judge, upon the new trial. Costs of this appeal to be to the plaintiff in the cause in any event.

Court of Appeal.

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

Euclid-avenue Trust Co. v. Hohs—R. S. Robertson (Stratford), for defendants. M. H. Ludwig, K.C., for plaintiff. An appeal by defendants from the judgment of a divisional court, allowing an appeal from the judgment at the trial, which dismissed the action with costs. Argument of appeal resumed from yesterday and concluded. Judgment reserved.

Carter v. Canadian Northern Railway Co.—I. F. Hellmuth, K.C., and G. F. Macdonell, for defendants. W. J. Elliott, for plaintiff. An appeal by defendants from the judgment of a divisional court dismissing an appeal from the trial judgment, which awarded plaintiff $480 and interest. The action was for the return of $480, paid by plaintiff to defendants on a subscription for the purchase of certain lands. Appeal argued and judgment reserved.

Warren Gzowski v. Forst—F. Arnoldi, K.C., and D. D. Briers, for plaintiffs. A. McL. Macdonell, K.C., for defendant. An appeal by plaintiffs from the judgment of a divisional court reversing the judgment at the trial in favor of plaintiffs and ordering a new trial, on the ground that certain evidence tended on behalf of defendants had erroneously been rejected by the judge at the trial, with the costs of the former trial reserved, to be disposed of by the judge at the new trial. Appeal partially argued but not concluded.

Fandom had its great opportunity on Monday at the Baseball Park and The Sunday World will this week have many of the stirring scenes, reproduced in a series of views on the front page of the Art Section. Some of the 22,000 people who attended are pictured, together with Dicky Rudolph; one Lavender, a pitcher for Providence, and one handsome mayor saluting the pretty little girls who honored him with a basket of flowers.

OFFICERS RESIGNED

When It Was Proposed to Suspend Anti-Liquor Rule.

ST. CATHARINES, May 11.—(Special.)—In consequence of objections made some time ago liquors have been entirely banished by nineteenth regiment from the officers' mess, sergeants' mess and every other part of armories. As the thirteenth regiment is coming here on Victoria Day it was proposed that prohibition should be suspended for that day. Two of the officers, understanding that such were the orders, asked to be relieved of their commands and placed on the corps of reserves. One of these was this morning asked to resign command of his company.

City Will Expropriate.

The city will expropriate the water lots at Sunnyside owned by Mrs. Pauline V. Meyers, Walter Dean and I. S. Devins, to get away from the damage suits that would otherwise follow the construction of the viaduct at Sunnyside. The city also want the property for the construction of the proposed sea wall and boulevard. This will mean that boating on Humber Bay will become a scarce proposition!