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THURSDAY MORNING, JUNE 19

TEMPER THE WIND.

By the fourteenth amendment to the United States constitution it is provided that "no state shall deprive any citizen of the United States of life, liberty, or property, without due process of law." It was intended by this provision to give the newly-freed blacks of the south an appeal to the national courts from the possible tyranny of the southern states. Incidentally, however, it opened the door to all citizens (including corporations) and, state laws, intended to regulate corporations, are frequently assailed as invalid by suits in the federal courts. Thus, the United States Supreme Court was called upon to review the railway rate legislation of Minnesota, Missouri and other states.

It was claimed by the railway companies that the rates prescribed by the several states were confiscatory, that to deprive a corporation of the reasonable use of its property and to compel it to operate its service at ruinous rates, was confiscation, or the taking away of its property rights, "without due process of law." Thus it has happened that the supreme court, while upholding the Missouri statute respecting maximum freight rates, has prohibited its enforcement against certain railway companies in the state. To the contention that a law could not be valid as to some companies and invalid as to others, Mr. Justice Hughes made the following reply:

> The contention raised by the complainants, that these legislative acts cannot be enforced against one company unless enforced against all, cannot be sustained. The argument in effect is, that although the charges of carriers may be clearly exorbitant, the state is powerless to compel them to put into effect reasonable rates because as to another carrier differently situated the rates thus prescribed might be unreasonably low. The acts are valid upon their face as a proper exercise of governmental authority in the establishment of reasonable rates, and each complainant in order to succeed in assailing them, must show that as to it the rates are confiscatory.

In practice the weaker railway companies will scarcely benefit by the court's ruling in their favor. For, as The New York Sun points out, a road cannot compete which charges a higher rate than does a competitor for the same service, and, unfortunately, there is no way by which the government of the United States can compensate the weaker railways, apparently driven to the wall by a reduction in rates.

In Canada there is no limitation upon the power of parliament. Parliament can prescribe the rates to be charged, either directly or thru the board of railway commissioners, and no company can be heard in the courts to complain that the rates are confiscatory, altho we are constantly hearing people argue this question as tho the fourteenth amendment extended to this country. On the other hand, parliament can in some way compensate weaker railway companies if what are fair and adequate rates for competitors prove to be ruinous in their case.

Every one admits that the rates charged by the Canadian Pacific are exorbitant and discriminatory, and that this company is collecting from the people a sum far in excess of a fair return for the service rendered. Parliament should, therefore, deal with this situation and establish reasonable railway rates, with equality of treatment for all parts of the country. If these rates will not permit the Canadian Northern or the Grand Trunk Pacific to live and carry on business, then an appeal on their behalf should be made to the board of railway commissioners or to parliament, preferably to parliament. But the people of Canada, like the people of Minnesota, are entitled to lower rates from companies that can stand them. Let us get that far in the case of the Canadian Pacific. Judge Hughes has shown the way.

A SLOPPY STATUTE.

Two or three years ago some citizens of Toronto procured a Dominion charter for the purpose of establishing a lunch counter on King street. They were quite within their rights in doing this, as they would have been had they procured a Dominion charter for the purpose of establishing a steamship line, a factory or a drug store. The Dominion Companies Act makes absolutely no distinction between a steamship line, an electric light plant and a gents' furnishing store; between what is a private enterprise with a capital of $25,000 and a public utility corporation with a capital of $25,000,000.

It is true that companies intending to build and operate railways, telegraph or telephone lines and companies intending to operate a bank, insurance or a trust must secure a passage of a private bill thru parliament, otherwise the field is open, boundless and unrestricted.

The secretary of state has no discretion about issuing the charter; at least we were told so in the case of a Toronto racing association not many years ago.

Those who would incorporate a company have only themselves to blame if they do not confer upon the nascent corporation unlimited power with respect to capitalization and the acquisition of all kinds of property, including the capital stock of other corporations. There is no obvious reason why a body of men incorporating a company for the purpose of operating a ferry should not take power to acquire, control and operate a racing association, a baseball club, an electric light plant, a string of hotels and all the vessels in Canada. Let the reader glance at any issue of The Canada Gazette and he will see that the incorporators act on this principle in many cases.

Is it not high time that the capitalization and merger of all public utility corporations, at least, were subject to supervision and restraint by some body like the board of railway commissioners? The recent big merger of all the inland navigation companies of Canada was made under the general Companies Act.

The finance minister has promised to revise the act, and he should do so in a progressive way. The Railway Act is also to be revised at the next session, and the two should harmonize in placing the capitalization and merger of big corporations under the constant and continuing control of parliament or of a public utilities commission responsible to parliament.

BRITISH EMIGRATION.

Increasing alarm is being felt in the United Kingdom over the rising tide of emigration. According to the official return close on 40,000 natives of the British Isles left their shores for places other than Europe, declaring their intention to take up permanent residence abroad. During the same month 5250 persons arrived in the United Kingdom to become permanent residents there, so that the balance outward for March was 34,192. This, if maintained, would mean a loss for the year of 400,000 persons, chiefly young or in the prime of life, but, making allowance for monthly fluctuations, this may be reduced at the final outcome of the emigration movement.

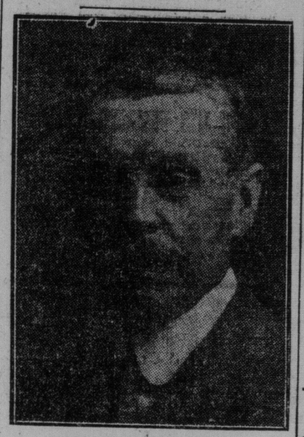
As the natural increase of the population cannot be placed at much over 400,000, and may be lower, there can only be a net gain of about 100,000 in the population of the British Isles for this year. As matter of fact, today only England and Wales are slowly adding to their populations, while those of Scotland and Ireland are falling. Altho some satisfaction is derived from the very large proportion of emigrants that went to the imperial dominions, the drain of the young and those in the prime of life, chiefly males, cannot but result in serious social changes. The United Kingdom already has a surplus of about a million and a half women and this with the raising of the average age of the population is creating what Mr. Chiozza Miney, writing in The London Daily News, describes as a great and grave problem. Evidently if the call of the dominions is to be evaded, a real effort must be made to improve the condition of the masses of the people.

THE MUTUAL LIFE OF CANADA.

About half a century ago a certain Cyrus M. Taylor organized a fire insurance company on the mutual principle, which means without shareholders, and that all the profits of the business belong to the policyholders. The fire company proved to be such a pronounced success that five years later he had convinced himself that a life company based on the same principle would command equal prosperity. So, as it happened, in the Town of Waterloo, Ontario, there came into existence forty-four years ago the Ontario Mutual Life Assurance Company, which thirty years later was changed by act of parliament to the Mutual Life Assurance Company of Canada. What distinguishes it today from all other companies in Canada engaged in the business of life assurance is its organization on the mutual principle.

Altho Mr. Taylor enjoys the distinction of being "the father of the Mutual," to William Hendry belongs the credit of laying its foundation upon a scientific basis, and in consequence he has the right to be regarded as its "foster father." He it was who developed the idea, who, with the assistance of the consulting actuary of the young company, evolved a table of adequate premium rates and then undertook the task of commending the new scale to the original policyholders and the public. To his work was due the establishment of the company on lines that time has abundantly justified, and his untiring devotion and the personnel of the board in charge of its affairs at the critical time prepared the way for its subsequent remarkable expansion.

These and other interesting points in the early annals of the institution are recorded in an attractive illustrated booklet recently issued by the present board, entitled, "The Story of the Mutual Life of Canada." Notwithstanding the financial panic of 1874, a substantial gain was effected and in the following year the million dollar mark was reached. Since 1875 the annual reports have shown an almost monotonous progress, happily unrelieved by a single calamity, the figures for quinquennial periods disclosing a surprising rate of increase. In 1912 the assets of the Mutual Life totaled $20,071,345 and the assurance in force amounted to no less than $77,921,144. At the date of issue of the booklet the gross surplus by the government standard was $4,388,361.41. So signal a success can only be attributed to the sterling character, exceptional ability and loyal service of the men to whom have been entrusted the control of Canada's only Mutual Life Assurance Company.



Important Canada Life Appointment—Mr. E. M. Saunders Made Treasurer of the Company.

The board of directors of the Canada Life Assurance Co. have appointed Mr. E. M. Saunders to be treasurer of the company. The duties of this important office, which was rendered vacant by the death of Mr. H. L. Watt, will be assumed by a banker of ripe experience, who, in addition to his long training in financial matters, has had very exceptional opportunities for studying conditions in the Canadian west.

Mr. Saunders, who is in the prime of life, is a son of the Rev. Dr. Saunders of Halifax, a divine well known throughout Canada, and received his education in Dalhousie College. In 1886 he joined the staff of the Canadian Bank of Commerce. He spent 15 years in Eastern Canada in the service of the bank, and 11 years ago went to the west, where he has represented the bank as branch manager at Moosomin and Moose Jaw, and, until the present time, at Calgary. In addition to the experience of western conditions obtained while acting as manager in these important cities, Mr. Saunders has studied conditions at other points on behalf of the bank, and the establishment of a number of its branches there has been on his recommendation.

The importance to the Canada Life of securing as treasurer a man with an equipment and training such as Mr. Saunders possesses is very great, for its investments in the western provinces total many millions and are rapidly increasing. The Canada Life has a complete organization of inspectors and valuators throughout the western provinces and its investments are only made after a favorable report by its own appraisers, endorsed by the investment committee. It has thus been enabled to secure very satisfactory rates of interest while ensuring the safety of the investments.

Under the direction of Mr. Saunders the company should have even increased success in connection with its western investments and through them continue its unique record of the past ten years, of having continuously increased its rate of interest earned.

The Philosopher of Folly

By Sherwood Hart

MASTERS OF FICTION.

Who says the art of writing's dead? The man who says so hasn't read the modern masters. He proves his education raw, for authors with the goods can draw like porous plasters. The man who wrote Bill Shakspere's plays deserves a modicum of praise—we don't deny it; and others since have written stuff that in its way is good enough, but it is quiet. When they describe the loveliest scenes they do not burn them in our beans, and make us crazy to haste to look upon each spot; they never make us pack and trot—their writing's hazy. But on the stuff the moderns write we fill our heads up day and night—we count each minute, which keeps us out of Wettondamp or Smelly Cove or Skeeter Camp or Nuthininit. We leave our Shakspere on the shelves and these days we regale ourselves on dinky booklets, in parrot green, Nell rose and gilt, all stuffed with pictures to the hilt of burbling brooklets and limpid lakes which teem with fish, enfringed with woods where zephyrs swish and sandy beaches; when on such themes these chaps discourse the views they paint with weight and force—oh, they are peaches! They brand upon our mental sight the scenes of which they glibly write such wondrous stories; as we absorb the seaside tales we hear the flap of tattered sails on fishing dories; the booklets on the inland trips make us at once pack trunks and grips and turn resorters; they drag us off to nature's haunts (where there are no good restaurants or sleeping quarters). The chaps who lure us far from town to spots where nature does us brown are some pertaters. These fellows show that they can write a line of stuff that's quite as bright as early-daters.

The Water Way to Winnipeg and the West.

Whether it is the call of pleasure or of business that induces a western trip, there is no more delightful route open to the traveler during the summer months than that via the Great Lakes from Sarnia to Duluth.

In this way the invigorating cruise is a whole day longer than by Port Arthur, without any additional expense while the direct double daily service of the Duluth, Winnipeg and Pacific Railway between Duluth and Winnipeg constitutes a still further advantage.

The country traversed by the above line is one of great scenic charm, serving as it does the famous "Dawson Trail" to those newly discovered playgrounds of tourist or sportsman known as the Quetico Forest Reserve and Rainy Lake District.

Convenient over-night trains from Duluth are equipped with electric lighted sleeping cars; day trains with parlor cars. In all cases the service is up to the standard recognized by experienced travelers as "C. N. R. quality."

For tickets and all information, apply to F. V. Higginbottom, city ticket agent, 52 King street east, Main 5197.

At Osgoode Hall

June 18, 1913.

ANNOUNCEMENTS.

Motions set down for single court for Thursday, 19th inst., at 11 a.m.:

1. Bank of Montreal v. Bell.
2. Re Smith Estate.
3. Pherrill v. Henderson.
4. Re Corr Estate.
5. Re Nordheimer Estate.

Master's Chambers.

Before J. S. Cartwright, K.C., Master.

St. Clair v. Stair—W. E. Raney, K.C., for plaintiff, moved to amend statement of claim by adding certain clauses fully set out in notice of motion. A. R. Hassard for defendant. Judgment: Plaintiff to be allowed to amend as specified. Defendants affected thereby to have eight days to amend if desired. Costs to defendants in cause.

Antiseptic Bedding Co. v. Security Mutual Fire Insurance Co.—W. A. Proudfoot, for plaintiffs, obtained order for issue of writ for service out of jurisdiction and for service of same and statement of claim on defendant company at Chatfield, Minnesota. Time for appearance 12 days.

Crucible Steel Co. v. Ffolkes—Wright (Millar & Co.), for plaintiffs as judgment creditors, moved for order for examination under C.R. 903 of two transfers of judgment debtor. M. J. Folinsbee for transferees. At request of transferees, motion enlarged until 23rd inst.

Bank of Ottawa v. Gilpin—Barnes (Heighington & Co.), for defendant, obtained order vacating lis pendens.

Canada H. W. Johns Manville v. Rice Hyara—M. Macdonald, for judgment creditors, moved absolute attaching order. M. J. Folinsbee for garnishees. S. S. Mills for assignee of judgment debtor. Order made discharging order, with costs to garnishees fixed at $10 and to assignee fixed at $5.

Birch v. Scott—E. Braden, for defendants, obtained on consent order dismissing action without costs and vacating lien and lis pendens.

Clegg v. Clegg—Macdonald (Day & Co.), for plaintiff, obtained on consent order vacating lis pendens filed.

Smith v. Roe—T. H. Wilson, for owner, obtained order vacating lis pendens registered May 31, 1884.

Single Court.

Before Meredith, C.J.

Collier v. Union Trust Co. re Leslie, an Infant—A. K. Goodman for petitioner. D. C. Ross for Union Trust Co., trustees. J. MacGregor for plaintiff. F. W. Harcourt, K.C., for infant. Motion by petitioner for sanction to a judgment agreed upon between the parties to this action in settlement of the matters in question. Judgment: The settlement affects very materially the interests of an infant in the lands which are chiefly the subject of it; and so to confer greater power upon the court, an application is also made by the official guardian in the infant's behalf, under the act respecting infants, for leave to her to take such steps as may be needful to carry into effect the settlement. Two questions are involved, one of law, the other of fact. Is there any power in the court, either in the action or upon the application, to authorize or give effect to that which is sought, notwithstanding the infancy? If so, is it advisable to do so? At present, if there were the power to do so, I would not carry into effect the proposed scheme. Apart from legislation, law and equity seem to have considered it safer to go the whole length of preventing persons from dealing with their land during minority. Therefore neither of the applications now before me will be granted; no order will be made in either of them; but both or either may be renewed at any time if there is anything new to me shown upon the subject in any of its features.

Before Middleton, J.

Re Gibbs Estate.—F. E. O'Flynn (Belleville) for executors, moved for order construing will under C.R., 938. W. C. Mikel, K.C., for grandchildren. Order made declaring daughter took vested interest, subject to be divested by any after born children, of which there were none. Costs out of estate.

Martin v. Robertson.—H. J. McKenna (Hamilton) for plaintiff, moved for order continuing injunction granted by local judge at Hamilton, restraining defendant from erecting fence between properties of parties. G. C. Thomson (Hamilton) for defendant. Injunction continued to trial. Posts to be pulled out till trial.

Tourbin v. Ager.—F. Aylesworth, for defendant, moved for order dismissing motion for order to continue injunction which had been enlarged until today. No one contra. Injunction dissolved and defendants at liberty to go on with building at their own risk. Costs reserved to trial judge.

Morris v. Harrison.—A. D. Crooks, for plaintiff, moved for injunction to restrain defendant from so displaying notices of his moving picture show, as to darken plaintiff's windows. V. J. Callon for defendant. Injunction granted until 19th inst.

Trial.

Before the Chancellor.

Cameron v. Smith.—J. E. Thompson (Arnprior) for plaintiff. R. J. Slattery (Arnprior) for defendant. Action to recover $3187.84, alleged to be due under covenant in mortgage, and in default sale of mortgaged premises, etc. Judgment: So far as foreclosure is asked, the action is for recovery of land and must be brought within ten years after the right of action first accrued, and for recovery of money on the convenant within ten years after the cause of action arose. The inaction of the plaintiff for more than ten years since the first default has therefore (under the statute) deprived him of all remedy upon this mortgage and the action must be dismissed. As however, defendant raised several defences which failed, I think he should pay the costs in proportion and to avoid the trouble of apportionment, I would fix the extent of his success as equivalent to one fifth of the whole, and direct that the defendant pay four fifths of plaintiff's costs.

Ellis v. Ellis.—J. Rowe (Norwich) for plaintiff. S. G. McKay, K.C., for defendants. Action for recovery of certain goods alleged to be detained by defendant, the property of the plaintiff. Judgment: The articles should be handed over to plaintiff, according to determination of daughter, whose intervention was accepted by both sides, and they need not be mentioned in the judgment. Judgment for delivery of piano and the other chattels as designated by the daughter and the payment of $2288 with interest to run from date of separation in October, 1910. Defendant to pay the costs.

Before Middleton, J.

Salter v. Everson.—H. H. Dewart, K.C., and J. F. Grierson, for plaintiff. A. R. Clute for defendant. Action for an injunction restraining the closing of parcel "C" and to establish right-of-way over defendant's lands, in town of Oshawa, by prescription. Judgment: The right-of-way now claimed by the plaintiff is not appurtenant to the parcel of which he is the owner, i.e., the 30 foot lot. The right, if any, which Quigley was acquiring, was a right-of-way to and from the yard and lane, and of which he was a tenant in common, and not a right access to the 30 foot parcel. On the evidence, I cannot find that the alleged easement "has been enjoyed by any person claiming right thereto without interruption for the full period of twenty years," next before this action, as I must find before I can declare that there is an easement by prescription. The easement claimed is by no means essential to the beneficial enjoyment of the plaintiff's premises. The lane to Bond street affords any easy access to the yard at the rear of his houses. For these several reasons, the action fails and must be dismissed with costs. I am asked to assess damages under the undertaking in the injunction motion. The delay has made the erection of the buildings more expensive, and has resulted in loss of rent. I cannot see how to cut the amount claimed down to less than $300.