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The Toronto World

TEN PAGES—THURSDAY MORNING, DECEMBER 5, 1907—TEN PAGES

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27TH YEAR

Carry the Power Bylaw--Toronto's Welfare Demands It

EX-DIRECTORS SUED FOR \$4,000,000

Misfeasance and Negligence Cause of Suspension

ONTARIO BANK SEEKS RESTITUTION

Alleged to Be Accountable for the Illegal Declaration of Dividends, Speculation in Stock Market Losses by Investment in Bank's Own Stock.

Claims for restitution of amounts aggregating nearly \$4,000,000 are made against the late directors of the Ontario Bank in a statement filed yesterday at Osgoode Hall on behalf of the Ontario Bank.

The defendants are: George R. R. Cockburn, Donald Mackay, R. D. Perry, Hon. Richard Harcourt, Ruffell Grass, Thomas Walmsey and John Flett, and the statement begins with the declaration that "on or about the 12th day of October, 1906, the plaintiff was forced to suspend payment by reason of the misfeasance and negligence of the defendants."

It is charged that defendants "knowingly and willingly" concurred in the illegal declaration of dividends and "unlawfully, improperly, imprudently and negligently" speculated in the stock market on margins, when losses were made almost continuously.

Each of these defendants assumed after his first election to be a director of the bank and as such took part in the management and control of the bank's stock, property, affairs and concerns.

Each of the defendants took only a perfunctory interest and did not perform his duty to the bank in managing its stock, property, affairs, etc.

Legal Dividends. Each of the defendants took only a perfunctory interest and did not perform his duty to the bank in managing its stock, property, affairs, etc.

The said defendant Cockburn was president of the bank from June 14, 1904, till Dec. 31, 1906, and as president and director was in receipt of a salary of \$400 per annum, but the said Cockburn did not pay due attention to the affairs of the bank or prevent the payment of dividends to shareholders out of capital.

The defendant, Donald Mackay, also receiving remuneration for his services as vice-president and director each year from 1903 to 1904, in the sum of \$1000 per annum, paid no attention whatever to these affairs of the bank.

The statement tells of the declaration of improper dividends, which it summarizes as follows: Dec. 1, 1903, \$34,670.68; June 1, 1902, \$4,923.22; 1902, \$45,000; Dec. 1, 1904, \$45,000; Dec. 1, 1905, \$45,000; Dec. 1, 1906, \$45,000; June 1, 1905, \$45,000; Dec. 1, 1906, \$45,000.

The plaintiff then charges that all the defendants are responsible for the sum of \$1,875,000, being the amount of the dividends declared since the election of the defendant Flett as a director in June, 1904; all except Flett for the sum of \$900,000, declared in November, 1905, and May, 1906, all except Walmsey and Flett for \$166,545, declared in November, 1901, May, 1902, and May, 1903.

Gambling in Stocks. The statement continues: "At each meeting of the shareholders subsequent to the declaration of dividends reported for the previous year, the defendants reported that a net profit had been the 31st day of the previous month, stating a particular amount, and that after deductions for charges of management and making provision for bad and doubtful debts the dividends declared had been paid out of the net profit, when, in fact, no net profit had been made."

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Demanded--the Restitution of \$3,903,688.97

The Ontario Bank's statement of claim for restitution on the part of the former directors of the bank, each of whom, it is alleged, "took only a perfunctory interest, and did not perform his duty to the bank in managing its stock, property, affairs, etc."

STATEMENT OF CLAIM.

- (1) For dividends improperly paid: (a) Against all the defendants except Walmsey and Flett \$444,123.93 (b) Against the defendant, Walmsey, jointly and severally with the other defendants, except Flett 277,500.15 (c) Against the defendant, Flett, jointly and severally with the other defendants 187,500.00 (2) In respect of losses on speculative investments: (a) Against all the defendants except Walmsey and Flett \$773,100.90 (b) Against the defendant, Walmsey, jointly and severally with the others, except Flett 1,000,000.00 (c) Against the defendant, Flett, jointly and severally with the other defendants 750,000.00 (3) For losses on the purchase of capital stock of the bank, against all the defendants 270,663.99 (4) To have it declared that, in the event of the property and assets of the bank being insufficient to pay its debts and liabilities, the defendants are, jointly and severally, liable for the deficiency to the amount equal to the par value of 2008 shares of the capital stock of the bank, or for a sum not exceeding 200,800.00 (5) Interest on the several amounts for which the defendants are respectively found liable, from the respective dates when the same were improperly abstracted from the funds of the bank. (6) The costs of this action. (7) Such further and other relief as the nature of the case may require.

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WILF: Maybe w'en I gits mo' confidence, dis coon'll git onto ice dat leads ter someweh, too.

MRS. GOULD TO GUILLOTINE URGED HUSBAND TO CRIME

He Gets Life Sentence--Wife Took Advantage of His Intoxication to Commit Murder.

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The trial of the Goolds consumed less than three days. It attracted attention from all over the world because of the enormity of the crime, the manner in which the murder was committed and the dramatic arrest of the couple.

Kingdom of Canada Says J. S. Ewart, K.C. Enumerates the Alternatives of Dominion's Future and Arouses Patriotism of Col. Hughes.

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ARREST MAYOR OF GLACE BAY

Was to Have Been the Guest of Honor at Banquet When Police Came.

GLACE BAY, N. S., Dec. 4.—(Special.)—To-night Mayor Burchell was arrested at the instance of the Dominion Coal Co. The mayor at the time was walking up the street on his way to the Clun Macdonald banquet, at which he was the guest of honor.

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JUST A MAD IDEA SAY FRIENDS OF LABATT

Puzzled Over Motives for His Alleged Black-mailing Schemes--Prominent People Interested.

OTTAWA, Dec. 4.—(Special.)—It is probable that further charges of black-mail will be brought against John R. Labatt. In addition to Hon. H. R. Emmerson there are a number of very prominent people interested, one or two of them being women, but they are not anxious to appear as prosecutors, and their names are being kept secret.

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