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PROBS.—Strong easterly winds; cloudy; followed by rain; becoming milder.

TWELVE PAGES—THURSDAY MORNING APRIL 29 1909—TWELVE PAGES

51 29TH YEAR

SUPREME COURT TO CONSTRUE RY. ACT

Will Decide Whether Commission Can Order Companies to Cease Discriminatory Rates.

37. Wherever it is shown that any company charges one person, company or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference, or an unjust discrimination, shall lie on the company.

341. Nothing in this act shall be construed to prevent (b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travelers, with his baggage.

Provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the board.

For an interpretation of two sections of the Railway Act the Dominion Railway Board will send a stated case to the supreme court to determine whether section 341 is in any way controlled or affected by section 77, and if it is so controlled, to what extent and in what particulars.

The point is raised in the application for an extension of commutation rates to certain places in the neighborhood of Toronto. The railways dispute the jurisdiction of the board and contend that there is no control and that they are perfectly free in the matter of commutation, mileage or excursion tickets to discriminate in whatever way seems good to them.

This contention was clearly brought out by E. W. Beatty of the C. P. R., who quoted the decision of the interstate commission in a case against the Southern Pacific Railway, in which the latter had issued excursion tickets to the Republican and Democratic conventions, but had refused them to the convention of the People's party. It had been held that no unjust discrimination had taken place.

"My contention," said Mr. Beatty, "is that we have the right to give or withhold as we see fit, and that where we have given we have the right to withdraw as we see fit."

Lay Claim to Wide Powers.

"Do you mean to say," interjected Judge Mabee, chairman, "that in the case of commercial travelers, for instance, you could give special rates to the Grits and withhold them from the Tories? Or, take the case of the legislature, could you give them to the government side and withhold them from those against the government?"

Mr. Beatty: "I think we could, my lord, but of course it wouldn't be done."

The chairman: "If your contention were to hold, you could lay out a town plot near another town, build a large hotel, issue commutation tickets to your resort and refuse them to the other towns. I would take issue with you when you say you have power to exercise all sorts of discrimination under the act. Suppose you built an hotel on a beach, would you have the right to issue commutation tickets to all who came to your hotel and not to others in the vicinity?"

Mr. Beatty: "The act gives us power to give free transport to some and withhold it from others."

H. L. Drayton, K.C., appearing for the city, said that the application was also in the interests of an outside population of 200,000 within a radius of 60 miles. There were 80 stations within a radius of 42 miles of Toronto and 47 within a radius of 22 miles. Of these 47 stations, 26 were given commutation rates. Here was obvious discrimination.

By comparison with the Montreal suburban district the difference was still more apparent. In that district 75 stations, all of those within a radius of 60 miles, were receiving commutation rates.

Freight Case a Precedent.

The application, Mr. Drayton stated, was broad, and made under all sections of the act that in any way deal with the question. It reads:

Application of the corporation of the City of Toronto, under sections 315, 317, 323, 341 and 77, for order compelling the Grand Trunk and Canadian Pacific Railway Companies to provide commutation rates to and from the City of Toronto and suburban municipalities within a certain radius. For an order compelling railways to cease discriminating unjustly between the City of Toronto and other cities of same or greater size, with reference to tolls, and discriminating between Towns of Oakville and Streetsville and the Towns of Brampton, Whitby and Oshawa, or others similarly situated.

The general principle, Mr. Drayton said, had been clearly laid down by the board in the manufacturers' coal rates case, that any discrimination was illegal under the act.

The chairman: "This was a freight rate case."

Mr. Drayton: "Quite so, my lord, but the principle is the same." In the Brampton case the matter was there dealt with as a matter of evidence and not of jurisdiction. The question was whether Oakville had profited at the expense of Brampton—setting one town against another.

Continued on Page 7.

BRITISH BUDGET SHOWS DEPRESSION

Revenue for 1908 Was Seven Millions and a Half Below Estimate—Pensions and Navy Chief Increase to Expenditure.

LONDON, April 28.—David Lloyd George, the chancellor of the exchequer, to-night issued an explanatory memorandum on the revenue and expenditure for the year.

He estimated the revenues in 1909-10 as $741,950,000 and the expenditure $820,760,000, showing a deficit of $78,810,000. The budget will be presented in the house of commons to-morrow.

It is pointed out that the increased expenditure is due mainly to old age pensions and appropriations for the navy.

Dealing with the past year's finances the chancellor says that nearly all branches of trade and industry suffered serious depression, the foreign trade returns showing diminution in value to the amount of nearly $570,000,000, as compared with 1907.

The chancellor adds that it is impossible to prophesy any immediate rapid recovery, but he is of the opinion that there are some indications that foreign trade is beginning to improve.

The revenue for 1908 fell short of the budget estimate by $7,510,000, and the interesting fact is noted that in that year for the first time the gross revenue dealt with exceeded $5,000,000,000.

The national debt now amounts to £3,770,606,545.

TO PROVE HAINS INSANE COUNSEL OUTLINES CASE

30 Witnesses to Testify to Defendant's Irrational Acts, From Childhood Until Crime.

FLUSHING, L.I., April 28.—General Peter C. Hains, the defendant's father, will be the first witness called to-morrow morning as the defence for Captain Peter C. Hains, jr., continues its attempts to establish the insanity of the young army officer who shot and killed Wm. L. Annis at the Bayside Yacht Club last August. The trial moved to-day with marked despatch; and when court adjourned Former District Attorney Eugene N. Young had completed his opening address, vividly outlining the defence to the jury, while in the five hours previous the prosecution put in its case to establish corpus delecti.

Gen. Hains will be followed by Major Hains, the captain's brother, and then by some thirty witnesses, all of whom will testify concerning Captain Hains' irrational acts following the revelation of his wife's alleged infidelity and her associations with Annis, as contended by the prisoner's lawyers.

Thornton J. Hains, the defendant's brother, who was tried and acquitted of complicity in the shooting of Annis three months ago, in the same court, is expected to be in court to-morrow. Because of anonymous threats against his life, counsel has asked for a police bodyguard for him and the court will probably delegate a special officer to sit near him. Thornton Hains will be an important witness for the defence.

Signs of Insanity.

Eugene M. Young of counsel for Capt. Hains, in opening the case for the defence, told the jury that evidence would be presented to show that Capt. Hains had been insane as early as May 31, 1908, and was insane at the time he shot Annis.

"His father, Gen. Hains, will tell you this defendant would wake in the night trembling and screaming with terror," said Mr. Young, continuing his address. "His mother will tell you how he was different from other children and stammered in his speech and had to be tenderly watched and guarded during his childhood.

"We will show that Capt. Hains fell down a hatchway when 12 years old and was rendered unconscious from the blow on his head, from which he did not recover for a long time.

"Those who brought him across the continent from San Francisco will tell you of his mad actions," said Mr. Young. "He never slept at all during the trip and paced the sleeping car, annoying the other passengers night after night."

Mr. Young described the family conference after the captain arrived from the Pacific Coast and the effect upon the captain of the news of his wife's conduct as told him by his father and brother, who said Claudia had confessed to them that she loved "Billy" Annis.

"He raved, alternately laughing and crying during this time," said Mr. Young, "and went about singing 'How happy it is to be married.' The thread had broken and his mind gave way."

Mr. Young said he would put in evidence the signed confession of Claudia Hains, the captain's wife, of her relations with Annis, and a letter written to Annis by her after the captain's return, telling Annis that her husband knew everything and warning Annis not to come to the house.

Grief, Shame and Shock.

"Capt. Hains was told that Annis kept his collars and cuffs in Mrs. Hains' dresser while the captain was away and was called 'papa' by the captain's own children," said Mr. Young.

Mr. Young said the defence would show that all these things had caused the defendant to go into outbreaks of maniacal frenzy at various times, always followed by periods of deep, severe depression.

"This man was made insane by grief, shame and mental shock," he added.

The lawyer told how the captain used to recite by the hour at his brother's home Kipling's Vampire, which begins "A fool there was."

$10,000 TO M'GILL.

MONTREAL, April 28.—(Special.)—Dr. Milton Hersey of Montreal has given $10,000 to the McGill Science Faculty.

The donation was announced at the annual dinner to-night.

ONE MORE FLAW IN THE G.T.P. CONTRACT

R. L. Borden Says Company Can Disown Eastern Section Until the Quebec Bridge Is Completed.

OTTAWA, April 28.—(Special).—The second reading of the G.T.P. ten million dollar loan bill was reached this afternoon.

R. L. Borden offered an elaborate criticism of the government's handling of the enterprise and made the suggestion that before any more favors are granted the company, the government should demand some return in the handing over of ten million dollars of the preference stock. For the small amount that the old Grand Trunk Company had put into the enterprise, the shareholders had been given $25,000,000 worth of the common stock. The country, the other partner, gets nothing.

He had been informed by competent authority that the Quebec bridge would not be constructed till 1915 or 1916, while the Quebec to Moncton section of the road would be ready five years earlier.

It appeared from the contract that the G.T.P. could not be forced to take over the eastern section till the bridge was ready, in which case there would be a loss in interest and depreciation of ten million dollars or more.

Hon. Mr. Graham, minister of railways, was not able to answer the observations of Mr. Borden, but he dwelt at some length on the absolute necessity of going ahead with the railway.

The discussion will likely be concluded this afternoon, and the house will go into committee on the bill, when Mr. Borden will offer a couple of resolutions, one demanding that the company hand over the preference stock for the loan.

Monuments to the Premier.

Mr. Borden began by referring to the Liberal hope that the G.T.P. would be a monument to Sir Wilfrid Laurier, and said he thought one monument should be erected at Moncton and another at Prince Rupert. When the project was mooted in 1903 the prime minister had proclaimed that he had "mountains of information," but the information then given had been misleading and inaccurate, a sample of which was the premier's estimate of $18,000,000 of cost for the mountain section, compared with the present estimate of the chief engineer of $67,000,000.

Roughly speaking, the road would cost $300,000,000, of which $180,000,000 would be for the eastern division, and which must be paid out of the revenues of Canada, and about $118,000,000 for the western division. Of the $118,000,000, about $90,000,000 would be provided by the country in guarantees. He would not minimize the advantage that the railway would be to the country, but for the small risk that the Grand Trunk had taken it had received in stock $25,000,000 for nothing. The people, who built nine-tenths of the road, get absolutely no return in that way.

Mr. Borden did not recede from the position he took in 1904, that the country should build the other one-tenth and own the whole road. Government operation of the I.C.R. had not been successful, but he believed it could be demonstrated that a government-owned road could be operated just as economically and efficiently as any corporation-owned railway.

The contract, however, had been made and could not be upset without the consent of the railway itself, but there were $20,000,000 of preference stock of the company left, and would it be too audacious to say to the Grand Trunk: "Give us ten millions of your preference stock for the nine-tenths of the cost which we have put into the road"?

Completion of Quebec Bridge.

Mr. Borden asked the minister of railways if he could say when the Quebec bridge was likely to be completed. Mr. Graham replied that it was impossible to do that till the plans of the board of engineers were completed.

Mr. Borden said he had been informed that it would be 1915 or 1916; that the Quebec-Moncton section would be completed in 1910, and would cost about 35 millions, whereas the estimate was 27 millions. What did the government propose to do to operate the road in the interim?

Mr. Graham said the house would appreciate that the fall of the Quebec bridge was "an unexpected condition." The government had under consideration a ferry across the river at Quebec. (Laughter.)

Great credit, said Mr. Borden, had been taken by the government for the character of the grades on the N. T. R., whereas he was able to show that there were grades of one and one-tenth per cent. known as "pusher grades," on the Quebec-Moncton section. In respect to grades, the advantage was very much in favor of the I. C. R. That the G. T. P. was not bound to take over the Quebec-Moncton section until the completion of the Quebec bridge was a serious difficulty.

How was it that the Grand Trunk had been able to complete the Lake Superior branch without additional assistance from the government? This was a most important branch of the road and it was fair to assume that the company would never give up the control of this line. Could this be the reason the company was building the portion of the road?

Mr. Borden asked the minister if he was sure that this would be the last request of the G. T. P. for aid.

If the Cry is For "More."

Mr. Graham was unable to say whether the company would come back, but if it did he wouldn't like to say the request would be refused. We would still be partners in the work, and would have to see the road thru.

Referring to two "pusher grades" east

Continued on Page 7.

THE DIVINERS AT WORK

First Frog (to Second Frog): "Gee, Mary, I hope they strike water soon."

COMMISSION TO DECIDE HOW TO GOVERN QUEEN'S

Board of Trustees Favorable to Practical Removal of University's Denominational Character.

KINGSTON, April 28.—(Special.)—At a meeting to-night of the board of trustees of Queen's University it was decided to ask the general assembly of the Presbyterian Church to appoint a commission to consider jointly with the board the desirability of removing the restrictions requiring that the corporators be Presbyterians and that a majority of the governing board be of that denomination.

Principal Gordon stated to The World after the meeting that a resolution was passed "favorable to the consideration of such changes in the constitution as would further the development of the university, "and requesting the appointment by the assembly of a commission "for the removal of such restrictions from the charter as would aid that development."

Principal Gordon said the word "separation" as applied to the plan under contemplation was misleading and objectionable, but did not deny that the "restrictions" alluded to were those which demanded a majority of Presbyterians on the governing board.

PROGRESS OF THE G. T. P.

Will Be Ready to Move Wheat Crop This Fall.

MONTREAL, April 28.—(Special.)—E. J. Chamberlain, vice-president and general manager of the Grand Trunk Pacific, who returned to-day from the west, makes the official announcement that the company's line will be wholly steeled from Lake Superior to a point 130 miles west of the Edmonton by Dominion Day, or a straight track of 1365 miles. They will also build 200 miles this year in Alberta and Saskatchewan, to move the wheat crop.

All the bridges between Winnipeg and Edmonton are completed and a gap of fifty miles is all that is left of the track laying from Manitoba to Edmonton. The McArthur contract of 275 miles from Prince Arthur Junction to Winnipeg will be all graded in a few weeks.

NO COMBINE IN INDIES

London Reports That Canadian Finance Minister Has Been Fooxled.

LONDON, April 28.—(C.A.P.)—The Morning Post regrets Fielding should have based a partial withdrawal of the preference on sugar upon an allegation which the slightest enquiry here or in the West Indies would have shown to be baseless, but it says Canada is perfectly within her rights in thus giving another warning that the preference cannot last without reciprocity.

The West Indies committee's circular declares there is not the vestige of truth in statements of a combine.

COLD AND SNOW IN WEST.

WINNIPEG, April 28.—(Special.)—Cold and inclement weather conditions prevail thruout most of the spring wheat country, and several inches of snow have fallen in the northern parts of Alberta and Saskatchewan.

Some progress is being made with wheat seeding, but warm weather is badly needed on the heavy and low lying land.

Plans Are Filed For 31 Storey Hotel in N.Y.

Will Be 376 Feet in Height and the Estimated Cost Is $2,000,000.

NEW YORK, April 28.—New York is to have the highest hotel in the world, if plans filed to-day with the bureau of buildings, are carried out. They call for a 31-storey structure at the southwest corner of Madison-avenue and 42nd-street, a stone's throw from the Grand Central Station. From curb to roof the building will be 376 feet high, overtopping by ten storeys any hotel structure in the city.

A local real estate company is behind the project and will expend $2,000,000 to complete the building.

A MONTREAL ALDERMAN HELPED THE SALOON MEN

Assisted in Getting Police Court Cases Settled, and Secured Influence For Polling Day.

MONTREAL, April 28.—(Special.)—The royal commission investigating the city administration got going in good shape to-day.

Developments began when T. A. Gauthier, chief clerk of the recorder's court, took the stand. His examination drifted along until Mr. Perron suddenly asked him if the habit of allowing liquor cases to be settled upon payment of the costs had not shown great development about the time of the municipal elections of 1907. Gauthier admitted that it had. He had been forced to act as collecting agent for the election fund of Ald. Proulx, chairman of the police committee, and had called upon a number of the saloon-keepers who had been accommodated by the dismissal of cases entered against them on payment of the costs. These saloon-keepers he had found willing to do the right thing by the alderman who had befriended them.

Several of the saloon men told of more or less generous contributions to the Proulx campaign fund. One F. J. Cavanagh confessed that he was so impressed with the good work of the chairman of the police committee in getting him out of the trouble that he spent $800 or $900 in securing his re-election, and that his efforts on election day were so enthusiastic that he actually killed his horse.

It is likely that a number of other aldermen will be implicated in the same way. Names were mentioned to-day, but no evidence was given in support.

MONTREAL COUNSEL REDUCED.

QUEBEC, April 28.—(Special.)—The Montreal city bill was finally passed to-night. The reduction of aldermen to one for each ward is now effected, tho an attempt was made to-night, but defeated, to divide one of the French wards into two to secure an additional member.

ABDUL AT SALONIKA TO BE KEPT PRISONER

Will Not, However, Face a Trial, and Household Will Be Generously Provided For.

CONSTANTINOPLE, April 28.—The former ruler of the empire, Abdul Hamid II., is to be kept a prisoner in a large house with walled grounds on a height overlooking Salonika, which has lately been occupied by the Italian commander of the international gendarmerie.

He is not to be put on trial, as has been widely reported in Constantinople, for he is considered to be above the law.

It was thought wise to keep the deposed sultan in European Turkey, remote from the capital. His household will be administered for him upon a generous scale and his life will be safeguarded as he earnestly besought when notified of his dethronement.

Abdul Hamid, with four wives, five daughters and two of his younger sons, two eunuchs and a comparatively large number of female servants, was taken from the Yildiz Palace last night, and started under an escort to Salonika. The party proceeded by steam launches to the landing near the railway, and a special train, on which they were placed, left at 3 o'clock in the morning.

The constitutionalists would like to get back part of the great sums of money that the former sultan is supposed to have abroad, not only because the government is in need of the money, but because it is desirable that he should be deprived of the resources for another coup d'etat. Speculation places Abdul Hamid's wealth at anything between $25,000,000 and $200,000,000.

The city is illuminated to-night and general rejoicing continues.

Mutineers Shot.

Altho this was a holiday, court martials were held, and several of the principals in the mutiny of the troops were condemned to death. Later they were taken outside of the walls of the city and shot. Prince Sabah Eddin, the nephew of the sultan, who was arrested on suspicion of being implicated in the rising, has been liberated.

The streets of the capital are filled with Macedonian volunteers. They are being feted by the citizens at the coffee houses and restaurants, which are full to overflowing. A brisk business is being done in the sale of pictures of the sultan and miniature flags inscribed with "Liberty, fraternity, equality and justice."

REV. MR. PIDGEON GOES WEST

West Toronto Pastor to Become a Professor.

VANCOUVER, B. C., April 28.—(Special.)—Rev. George C. Pidgeon of West Toronto has accepted the chair of practical theology in Westminster Hall Theological College here. The chair is endowed by a $40,000 grant from Capt. J. J. Logan.

Tornado in Kansas.

WICHITA, Kas., April 28.—One person was killed and ten were injured by a tornado which wrecked a large portion of Douglas, Kansas, this evening. The storm spread over a wide area, doing much damage to farm property.

SHOULD CROWN DISCLOSE NEW EVIDENCE?

Point Raised By Judges of Divisional Court in Argument to Quash the Kinrade Warrant.

Six points were made by George Lynch-Staunton, K.C., before the divisional court yesterday in the effort to have the coroner's warrant quashed, which summons Florence Kinrade as a witness in the inquest on her sister's murder. Judgment was reserved by the court on another point altogether, and it may be some days before a decision is given.

Late in the afternoon Chancellor Boyd expressed the view that the crown should state upon what matters it was sought to re-examine the witness. This was eagerly supported by Mr. Lynch-Staunton, who recalled the point to the court just before adjournment.

Mr. Cartwright said that Florence Kinrade had not been examined for four weeks, and that meanwhile additional information had been found.

"Well, you may put in an affidavit setting forth your reasons for recalling her. Can you not disclose to the court this new information? Don't you think the crown ought to condescend to say upon which points they wish to question her?"

"Not at all, my lord," said Mr. Cartwright.

"Well, you see there is an affidavit put in saying she has told all she knows. Don't you think you ought to put in an affidavit? You know the custom is that when a witness is examined and counsel wishes to recall the witness, the custom is to explain to the trial judge upon what point or points you wish the witness to be recalled?"

"Surely," returned Mr. Cartwright, "we cannot be expected to disclose our information as yet to the defence."

Mr. Lynch-Staunton's Argument.

Mr. Lynch-Staunton's points were that no coroner has power to issue a warrant for a witness; nor outside the jurisdiction of his own court; that a coroner's court is statutory, and not a court of record, and that the statutes give a coroner no power to arrest for contempt of court; that no questions of an incriminating nature may be asked of a witness where the liberty of the witness is in jeopardy; that Miss Kinrade, having told all she knew, cannot be called again; and that no one outside the crown attorney has authority to cross-examine witnesses at a coroner's inquest.

Mr. Lynch-Staunton reiterated his statement that Mr. Blackstock had accused Florence Kinrade of murdering her sister. The court desired proof of this, and a full copy of the evidence taken at the inquest will be supplied if this point is regarded as important.

Chancellor Boyd, Justice Magee and Justice Latchford composed the court. J. R. Cartwright, K.C., deputy attorney-general, and J. B. Mackenzie appeared for the crown, and Mr. Lynch-Staunton, T. C. Robinette, K.C., and Thomas Hobson, for the family.

A Coroner's Powers.

Chancellor Boyd held that a coroner could only summon witnesses in his own jurisdiction. Justice Magee considered the coroner's right to exercise his jurisdiction outside his own territory must have existed from time immemorial.

Mr. Lynch-Staunton: "This coroner is not the coroner as he is in England. The lieutenant-governor may appoint a coroner. The courts are appointed either by statute or crown proclamation."

"In other words," said Mr. Justice Latchford, "you say the coroner has only the statutory powers and not the powers under the common law?"

"Then my next contention is, that no person has any authority to arrest anybody for anything, unless he has statutory authority to do so in this country," said Mr. Lynch-Staunton. "The other side must be given a hearing. Even a high court of justice would not attempt to condemn a person without a hearing.

"I hold that this coroner's court in this country is the one that takes the place of the ancient coroner's court in England, which was constituted by statute, and so is limited, as was the ancient court, by such powers as the statutes gave it.

"Our high courts of justice are the same here. They take the place of the English courts of Westminster, and their powers are defined by statute.

"Since Shakespeare's time, it has been known that every court has had its powers decided, but no mention is made of a coroner having the authority to place anyone under arrest."

To prove his point, Mr. Lynch-Staunton quoted Shakespeare, referring to the law of "Coroner's Quest," mentioned by the dramatist.

Chancellor Boyd: "The coroner has power to bring witnesses before him. This does not need authority. It has been established by custom as stated by Jarvis, from time immemorial. It must be so if a coroner's inquest is to be anything more than a farce."

"If there ever was authority for a

Continued on Page 7.

The King Suggests Them.

England's Hatters hold a great place in the estimation of well-groomed men the world over. They have an immense following—Henry Heath, maker to His Majesty King Edward—is probably the greatest favorite, because of the fact that the King himself suggests many of his own designs, which afterwards become leaders. Dineen is sole Canadian agent for Henry Heath. The new designs for spring are all in.