The Toronto World
A Morning Newspaper Published Every Day in the Year.

AMEND THE RAILWAY ACT.

Toronto is intimately concerned with the agitation for the improvement of the suburban service, and for the provision of the same facilities as regards commutation rates to other neighboring centres that have been given Montreal. This difference, it has been reasonably contended, amounts to an improper discrimination against Toronto and its removal has already formed the object of concerted action on the part of Toronto and the other municipalities specially concerned.

For that purpose an application was recently made to the board of railway commissioners for the Dominion, but the merits of the claim were not adjudicated upon as the commissioners were confronted with a technical objection striking at their power to issue a mandatory order. In the circumstances they deemed it necessary to obtain the judgment of the supreme court regarding the character and extent of the board's jurisdiction and intimated that they would bring the point under the cognizance of that court.

Complaints of discrimination are eminently fitted for submission to a railway board. When objection was made concerning the Dominion commission's power to order a viaduct and similar judicial delays were threatened, parliament, at the instance of the government, made the matter of jurisdiction clear and prevented needless delay. The same remedy, it is now contended by the municipalities, should be applied to the deadlock caused by the questioning of the board's jurisdiction over suburban services and commutation rates.

The committee of the city council has recommended that Toronto concur in addressing a request to the Dominion Government to pass an amending act during the present session of parliament, and thus obviate the two or three years' delay which will occur should the construction of the Railway Act clauses creating the difficulty be left to the supreme court and the judicial committee of the privy council, where it might go. The city council, at its meeting to-day, should certainly heartily support the other municipalities in bringing pressure to bear on the government and in securing an amending act settling the jurisdiction of the railway board.

GOVERNMENT TRANSMISSION LINE SAFE.

Nothing but regret will be felt for the unfortunate victim of the accident to the power transmission line from Niagara on Thursday night. But regret should not take merely negative forms. The incident and the unfortunate cause of it should forever set at rest any further opposition to the building of a modern, fully-equipped and properly protected system, such as has been designed by the Ontario Hydro-Eelectric Power commission. The lightning conductors and guards on the government system will render any accident of the kind impossible. Should the transmission line itself by any other mischance be broken, an automatic cut-off at once arrests the current, so that the broken wire, when it strikes the ground, becomes "dead" and harmless. No time should be lost now that the weather has rendered it possible to push forward the construction work. The fullest assurance should be given to residents along the route of the line of the complete protection afforded them by the adoption of the latest safety devices.

TELEPHONES ON THE INSTALMENT PLAN.

What appears to be a valuable adjunct to the telephone service has just begun in London. It has been found that the requirement of a lump sum in advance deterred many small business men and householders from taking advantage of the telephone service. A company has now been formed to carry out a plan by which the yearly sum charged by the postoffice or the National Telephone Company can be paid in monthly instalments, but at a slightly increased rate. The charge in London has been fixed at about $3.50 a month, and the enquiries with which the company was inundated immediately after it commenced business showed that the proposal appealed to a very large section of the community. Modern facilities such as the telephone should certainly be made available to citizens who find themselves unable to secure them under the imposed conditions.

STREET RAILWAY TIE UPS.

Unavoidable accidents are always excusable and the public has never been unreasonable about submitting to inconvenience arising from such causes. At the same time the Toronto Street Railway might do something to conciliate its patrons. When the "power is off" nobody ever knows for how long it will be off. A passenger may sit for five minutes or fifteen minutes or three-quarters of an hour, as some did on Friday last who had long distances to go. The company did not offer them any sympathy, nor their fares back. That was too much to expect. But the company might at least offer transfers to passengers under such circumstances good on the same car if the car should come along in time to overtake the passenger who sets out to walk. Many have had the experience of getting out and walking a block or two to find the service starting up. If the passenger gets on the car again, he must pay another fare. A transfer with extra punches on it for identification would serve the purpose.

Another point where the company might consult the public convenience arises when repairs have to be made. No stoppage of that kind should be made without giving the public notice. Roadmasters could inform conductors and notices should be hung in the cars. Some effort at least should be made to prevent inconvenience to those who have important engagements to meet or trains to catch. "It may be five minutes or it may be an hour," was all the information that passengers were given by conductors yesterday afternoon, when the company must have known that a stoppage was compulsory. When the company cheats the public out of time and money, little sympathy will be felt for it when it seeks to exact more than its pound of flesh in other matters.

THE KEARNEY UNDERGROUND RAILWAY COACH.

TORONTO CAN SETTLE HER TRACTION TROUBLES WITH TUBES.

The World is more than surprised at the cavalier way in which the city engineer, Mr. C. H. Rust, turned down a recent proposition for an underground railway for Toronto, notwithstanding the fact that Toronto to-day is up against it in the matter of a street railway service. Everybody knows that the Toronto Railway Co. refuse to extend their lines; they arrogate to themselves the right to dictate what streets they shall occupy, what kind of service they shall give, and that they themselves are the sole interpreters of the agreement. Not only that, but there are not enough cars, the cars are overcrowded, the city is growing rapidly, the new districts taken in have some of them a double fare, and the expansion of the city is prohibited in a remarkable way.

The World has always declared that the tube was the solution of our local traction difficulties. Not only would a tube railway give speedy and quick traction thruout the city, but it would give accommodation for the suburban lines as well and let them all come to the centre of the city, **without any further congestion of the streets.**

Moreover, the city is absolutely free to build and own this tube railway at any time; it was explicitly made a part of the street car agreement that the city could undertake an overhead or underground system at any time, notwithstanding that it had parted with the surface traction franchise for 30 years.

Another great feature of the tube railway is its independence of weather conditions. It is not affected by winter or by rain or by storm.

The World, as was stated above, has always suggested that a tube railway was the only move the city could make in order to get good service and at the same time to get decent treatment from the surface railway, and The World was, therefore, more than surprised to see the way in which the suggestion of a tube was summarily dismissed by the city engineer, and apparently by the mayor and council as well, when it came before them.

We are taking the liberty this morning of publishing the correspondence:

EIGHTH REPORT OF THE CITY ENGINEER

City Engineer's Office, Toronto, April 30th, 1909.

Mr. Ald. McGhie (Chairman), and Members of the Committee on Works.

Gentlemen: I enclose herewith a copy of a letter received from The Kearney Highspeed Railway Co., Ltd., together with a copy of my reply thereto, which speaks for itself.

17 Old Queen Street, Westminster, S.W., 8th April, 1909.

C. H. Rust, Esq., City Engineer, City Hall, Toronto:

Dear Sir: With reference to my call upon you last January, in regard to the proposed subway system in Toronto, I now write to say that with the Kearney Railway and the Kearney Single Tube system employed, the cost would probably not exceed $1,000,000 per mile, including complete equipment ready for running.

I suggest two routes as most suitable, viz., a north and south line starting from a point to be decided upon in North Toronto, and running under Yonge-street to the Custom House, thereby giving direct connection to the new Union Station; an east and west line starting from East Toronto and running under Queen, Dufferin and Dundas to Toronto Junction. The two lines would cross at different levels at the intersection of Queen and Yonge, where an interchange station would be constructed.

The average speed, including stops at intervals of about five furlongs, would work out at 30 miles per hour, i. e., two miles an hour faster than the average speed on the express tracks of the New York Subway, and double the speed of the locals.

The comparatively small capital expenditure required, and the low working costs peculiar to the Kearney system, will render the scheme I have outlined a remunerative undertaking. If you will be good enough to let me know directly there is a possibility of a franchise being granted for such a project I should be pleased to have detailed plans and estimates prepared.

Awaiting your kind attention,

I am, Yours very truly,

THE KEARNEY HIGH-SPEED RAILWAY CO., LTD.,

(Signed) E. W. C. Kearney, Managing Director.

City Engineer's Office, Toronto, April 19th, 1909.

The Kearney High-Speed Railway Company, Ltd., 17 Old Queen Street, Westminster, S. W., London, Eng:

Dear Sirs: In reply to your letter of the 8th instant, I do not think under any circumstances the city would be prepared to give any new company a franchise for a longer period than the lifetime of the franchise of the present company, which expires in about thirteen years, and under such a short franchise I am afraid there would be some difficulty in interesting financial men. Besides I do not think at present Toronto is large enough to afford the luxury of an underground railway. I am, however, forwarding your letter to the committee on works for their consideration.

Yours truly,

C. H. RUST, City Engineer.

Mr. Rust, to our mind, had no good reason for dismissing the proposition in the way in which he did. It should have been submitted to the council and must now be discussed by that body. It could have been pointed out, as it should have been pointed out, that the city did not have to part with this franchise; it could build the road itself and when the surface franchise expired, the two could then be consolidated into one system. But the great thing in the meantime is to get the tubes going.

Roughly speaking, the lines of tubes proposed by these London engineers is three miles on Yonge-street, and five miles east and west near Queen-street, in all eight miles, costing by first estimate $8,000,000. The World is confident from information in its possession that a high-class tube can be built for three-quarters of a million a mile and that such a tube would let people reach the centre of the city in five to seven minutes from almost any place north, east or west. The whole outfit would not exceed in cost $6,000,000 and the Toronto surface railway to-day is paying interest on all its bonds issued for construction, and seven per cent. dividend on $6,000,000 of watered stock. Any one can see that a tube company with the tolls it would draw from the suburban lines would be a most profitable undertaking and would bring into the city hundreds of thousands of dollars a year.

The thing to do is for the city council to get busy on the question of tubes and to get the estimates and get into correspondence with contractors, and once they do that they will be making great headway in the matter of improved traction.

If you want to see Robert Fleming start turning handsprings let the council intimate to the firm whose letter is published above, or any other firm of tube builders, that the city is prepared to contract for the construction of a tube system, paying therefor in low-rate city bonds secured on the undertaking. There will be no money to borrow, no franchise to sew up, but immediate relief of all Toronto's traction troubles, and a big flow into the city treasury.

IN THE LAW COURTS

ANNOUNCEMENTS.

Osgoode Hall, May 8, 1909.

Motions set down for single court for Monday, 10th inst., at 11 a.m.:

1. O'Reilly v. Grills.
2. Rose v. Rubas.
3. McDonald v. Maybee.
4. Cadow v. Cadow.
5. Re Ferguson Estate.

Peremptory list for divisional court for Monday, 10th inst., at 11 a.m.:

1. Dejorso v. Macdonell.
2. Rex v. Miller.
3. Pigeon River v. Mooring.
4. North American Tel. Co. v. Bay of Quinte Railway Co.
5. Thornton-Smith v. Woodruff.
6. Weston v. Perry.

Peremptory list for court of appeal for Monday, 10th inst., at 11 a.m.:

1. Henderson v. Manufacturers' Nat. Gas Co.
2. Davies v. James Bay Ry. Co.
3. Berkinshaw v. Henderson.
4. McNeil v. Stewart.

Peremptory list for non-jury assize court, Monday, May 10, at city hall, at 11 a.m.:

41. Great West Life v. Walker.
88. Reid v. Diebel.
126. Lincoln v. McKinnon.
195. Sadler v. Ball.
201. Metropolitan v. Osborne.

Master's Chambers.

Before Cartwright, K.C., Master.

Giedhill v. Telegram Printing Company of Winnipeg.—J. A. McAndrew, for plaintiff, moved on consent for payment of certain moneys out of court. Order made.

De Camps v. Kemerer.—A. Cohen, for defendant, moved on consent for an order dismissing action without costs. Order made.

Niagara Power Company v. Electrical Development Company.—W. E. Middleton, K.C., for defendants, moved to change venue from Welland to St. Catharines. R. C. H. Cassels, for plaintiffs, contra. Order made. Costs in the cause. Leave to plaintiffs to amend statement of claim.

Aikins v. Clougher.—Gray (Briggs & F.), moved for leave to issue writ for service out of jurisdiction and for service of it, and of statement of claim. Order made.

Standard Bank v. Boiler Flue Company.—W. H. Irving, for plaintiffs, moved for judgment under C.R. 603. A. E. Knox, for defendant, contra. Motion dismissed. Costs in the cause.

Giant Silver v. Varin.—J. Montgomery, for plaintiff, moved for leave to add a party defendant. Order made.

Single Court.

Before MacMahon, J.

Hern v. Stow.—G. H. Kilmer, K.C., for plaintiff, moved ex parte for an injunction. Injunction granted until 14th May on the usual undertaking restraining defendant from receiving the purchase money arising from any sale of mining claims Nos. M.R. 1891, M.R. 1893, M.R. 1894, M.R. 1895, M.R. 1899, M.R. 1901, M.R. 1902, M.R. 1954, M.R. 1955, and M.R. 1956, except subject to the lien of the plaintiff for unpaid purchase money, with liberty to file further material on return of motion.

4 Trial.

Before Riddell, J.

Johnson v. Brown.—J. C. Makins (Stratford), for plaintiff. R. T. Harding (Stratford), for defendant. Judgment (G.). The plaintiff, a laborer, who was for some years, and up to the time of her death, in the employment of a Mrs. Walters of Stratford, sues the executors of the said Mrs. Walters for remuneration. Mrs. Walters was a very exact woman, insisting on paying cash for all she got. She paid Miss Davidson also very punctually, and seems to have had a sense of what was due to others in the way of prompt payment. No express bargain or suggestion of an express bargain was made with the plaintiff. Mrs. Walters never promised to reward plaintiff for his services, either by ante-mortem payment or by legacy. The plaintiff performed the services in the hope of a legacy, in the expectation that the widow would do the right thing by him in her will. He got his board and lodging, but, as I now think and find, his services were worth at least $2 a week (my estimate at the trial was too low), in excess of the value of the board and lodging. The plaintiff was not, as he expected to be, remembered in her will, and now brings action for the value of his services. I find the plaintiff entitled, as on a quantum meruit. I am bound, however, by Cross v. Cleary (1898), 28, O.R., 542, and must hold that the payment for services, going back to six years before the teste of the writ only can be recovered in this action. I assess the plaintiff's services for 234 3-7 weeks, at $2 per week, amounting to $568.85. The plaintiff may amend his pleadings claiming this sum, and have judgment for this sum and costs. It may be that the plaintiff, if the defendant is satisfied to abide by this judgment, may accept the $500 claimed in full, in which case no amendment need be made, and the judgment will be for $500 and costs. The executor will have his costs, solicitor and client, out of the estate.

Before Teetzel, J.

Laidlaw v. Canada Life—G. T. Blackstock, K.C. H. E. Rose, K.C., and S. H. Bradford, K.C., for plaintiffs, moved for an injunction restraining the defendant company, their directors, officers, delegates, attorneys, representatives, agents and servants from the further promotion of or proceeding with or prosecution of private bill No. 56, called "An act respecting the Canada Life Assurance Company" before the house of commons of Canada, in so far as the same relates to the second clause thereof, which is in the words and figures following: 2. The expressions 'all the profits realized from the entire business of the company,' the profits realized in the business of the company, and 'such profits,' where used in chapter 71 of the statutes of 1879, were and are intended to denote the profits realized in carrying on the Canada Life Assurance Company's life insurance business, exclusive of the interest earned on the amount of paid-up capital and on other moneys from time to time at the credit of the shareholders arising from interest so earned or from the shareholders' proportion of profits,' until the trial or other disposition of this action. J. W. Nesbitt, K.C., A. Bruce, K.C., and D. L. McCarthy, K.C., for the defendants, contra. Motion dismissed with costs in the cause unless trial judge otherwise orders.

29,000,000 Wage Earners.

WASHINGTON, D.C., May 9.—In the tariff debate yesterday, Senator Lodge, calculating the number of people engaged in trades and occupations in the United States at 29,000,000, declared that, including those who were dependant upon their wages for support, they made up "practically the whole population of the nation." Asserting that the protective system had been in force in some form since 1816, he insisted that to change it now would be to bring disaster upon the nation.

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A very broad field of selections has been covered, as this brief price-list would indicate:

BASEBALLS:
Bounder, 5c; Chaser, 10c; Young Canada, 15c; King of Diamond, 25c; University, 50c; Official League, $1.25.

BASEBALL BATS:
Boys', 5c and 10c; better grade, 20c and 25c; medium, 35c and 50c; selected goods, 65c and 85c.

FINGER GLOVES:
Of selected leather, well stitched
Boys', black and white leather, 25c.
Full leather lined, welted thumb, men's size, 75c.
Welted seams, black leather, men's size, $1.25.
Welted seams, full leather lined, men's size, $1.75.
Welted seams, full leather lined, horsehide, webbed thumb, regular professional glove, $3.00.

CATCHERS' DECKERS:
FOR $1.50—Decker of selected leather, well stitched and bound with best felt padding, full laced back with buckle band, $1.50.

CHEST PROTECTORS:
Junior, first quality rubber, $3.50.
Regulation size, $5.00.

BASEBALL MASKS:
Boys', with cheek pads, 25c; with cheek pads and temple, 50c.
Men's, blued steel wire, temple and cheek pads, head and chin pieces, good quality, $1.75; best grade, $2.25.

OTHER ACCESSORIES:
Rubber *Finger Protector*, laced bottom, horsehide facing, price $2.00.
Genuine Horsehide Fancy Rubber Protector, laced back, buckle band, price $2.50.
Baseball Cleats, D. & M., No. 1 toe and heel plates, 10c pair.
Pitchers' Plates, nickel steel, each, 25c.

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EARLY MORNING FIRES

Harold A. Wilson and Canada Plate Glass Premises Damaged.

Two fires occurred early Saturday morning, one in the Harold A. Wilson Company's store, 297-299 Yonge-street, and the other in the Canada Plate and Window Glass Company, 37-45 East Richmond-street.

It was about two o'clock in the morning when flames were discovered bursting from the windows and roof of the Wilson store, and before the fire was extinguished, the rear half of the top flat was totally destroyed and about $25,000 worth of stock was destroyed by fire and water.

The building is a new structure and cost over $30,000 to erect, while the stock was valued at $60,000. The damage to the building amounted to $2500. It is not known how the fire started.

The fire in the Canada Plate and Window Glass Company's building only lasted about fifteen minutes, the damage from it amounting to about $1500. F. G. Haymard & Co., whitewear manufacturers, occupied the two upper storeys, but the damage was only about $100. The loss in both cases is covered by insurance.

Montreal Seats in Demand.

Recent activity in dealings on the Montreal Stock Exchange was reflected in the bid of $24,500 made for a seat to-day. The last transaction in a seat was at $23,500.

Some years ago, when there was an extraordinary boom in the stock market the top notch for a seat was $27,500, and to-day's bid is the nearest approach to those figures. The present level in prices for seats shows a rise of approximately $5000 within a year or so.

Round Trip Excursions at Low Rates to Seattle, Wash., Portland, Ore., Tacoma, Wash., Everett, Wash., Bellingham, Wash., Victoria, B.C., Vancouver, B.C., San Francisco, Cal., Los Angeles, Cal., etc. Good going May 20th to Sept. 30th. Return limit Oct. 31st, 1909. For tickets and full information call at Grand Trunk city ticket office, northwest corner King and Yonge-streets. Phone Main 4209.

Didn't Shoot to Kill.

WINDSOR, May 9.—Herman Kraft, alias Martin, aged 23, in court Saturday, was charged with shooting with intent to murder Policemen Reid and Lister, and Geo. Quamby. He said he was not shooting to kill, but merely to assist in escaping.

Fatal Strike Riot.

DULUTH, May 9.—One man dead and six others injured, the result of a riot at Superior, Wis., between union and non-union men, when the coal laden steamer Bertin tied up at the Northwestern Fuel Company's dock. It is thought a private detective fired the fatal shot.

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O'Keefe's Special Extra Mild PORTER
Never makes you bilious because it is purc. 93

NEW MAPLE SYRUP AND MAPLE SUGAR AT MICHIE'S
Michie & Co., Ltd
7 King St. West.

China's Tariff.

WASHINGTON, May 9.—All the governments except Germany, which have been sounded by the United States on the subject, have assented in principle to the wish of China for a conference to consider the question of raising her tariff rates.

GARDEN TOOLS
Spades, Shovels, Rakes, Wheelbarrows, Hose Reels, Garden Hose, Lawn Sprinklers.
EVERYTHING REQUIRED FOR THE GARDEN AT
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AGED WOMAN FOUND DEAD.

Mrs. Gibson, an aged woman, living alone at 631 Givens-street, was found dead in her cottage Saturday by F. C. McElroy.

Neighbors reported that the woman had not been seen for three days and the constable investigated. Coroner McCollum investigated and decided that an inquest is unnecessary.

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