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GRANDSON MUST WAIT FOR BEQUEST

Will of the Late Sir Frank Smith Interpreted by Court.

DENY DAMAGE APPEALS

City Unsuccessful in Trying to Reverse Slippery Sidewalk Verdicts.

At Osgoode Hall yesterday Mr. Justice Lennox gave judgment in the construction of the will of the late Sir Frank Smith, who died in 1901. His lordship was asked to declare whether or not Frank Harrison, a grandson, was entitled to be paid the income on certain moneys now in possession of the Toronto Trusts and Guarantee Company, being the accumulation of income unexpended and unused during his minority, which may be carried between the date at which he attained his majority and the date at which the accumulations may become his property under the provisions of the will.

Under the will Sir Frank Smith directed that Harrison was to become entitled to a share of what was called the "residue of income" until the time fixed for the distribution of the capital of the testator's estate. The amount equaled one-tenth of the income. Mr. Justice Lennox says the answer is manifest. The accumulation of income included all interest on the securities and all compoundings of interest. The testator made his intentions clear: "I declare the income that may so accumulate during the minority of the child shall not become his property except contingently and conditionally upon such child being

above twenty years after my death." His lordship states as his opinion that if Frank Harrison survives the twenty years he would become entitled to receive, but that it is not a matter in which he is interested. He holds that Harrison is not entitled to the moneys accrued upon the funds in the hands of the trustees and will not be entitled to it during the said twenty years.

City Loses Appeals.
The City of Toronto lost two appeals before the appellate division. The first was from a verdict awarded Miss Sarah Hagarty, a teacher in the King Edward School, \$300 damages for injuries sustained when she slipped on the icy pavement outside the school on Feb. 24.

City Responsible.
In the second case the appeal was from a judgment in favor of William Strathie, who slipped on the concrete sidewalk on Polaris avenue while running from a bathurst car towards his home on Jan. 6 and smashed his arm. Judge Coatsworth awarded him \$350. The sidewalk, which was an addition to the one existing, was laid by W. Dole, who has a confectionery store at the corner of Bathurst street and Polaris avenue. It was laid without a permit from the city.

VICE-CONSUL ARRIVES.
Signor Calametea Maripio, the new Italian vice-consul, arrived yesterday. It is expected he will assume his duties today.

GERMANS SHELLED HOSPITAL BUILDING

Grueling Experience of Field Ambulance at Ypres Described.

WORKED THRU NIGHT

Canadians Were Singled Out as Special Mark by German Artillery.

Thrilling experiences in Canadian Red Cross hospitals under German shell fire are graphically described by Capt. A. M. Gordon, one of the Presbyterian chaplains with the first Canadian contingent, in a letter to Rev. Dr. Hadow of Toronto. "Capt. Gordon, writing just after the battle of St. Julien, says: "At that time the first Canadian field ambulance to which I am now attached, was in a village behind the line of trenches held by the allies. "I can never forget the terror of my landlady as she rushed into my room at 10 o'clock in the evening, exclaiming: 'Les Allemandes'—the Germans are coming!'"

"It sounded incredible, but just to set her mind at rest I went out to see what had happened. "No one knew. There were wild rumors that the Germans had taken Ypres and were pressing westwards. "There were hurried movements among the motor lorries packed in the village, as a string of them were sent forward to carry fresh ammunition to our troops. "But where the enemy was, where our infantry was, where our guns were, could not be learned. "Presently an order came that some of our orderlies and stretcher-bearers should march with all speed to a spot we had occupied a day or two before, some eight miles nearer the scene of action. I joined them. "Our march with the prospect of real work to do, marched as they had never marched before."

Terrified Refugees.
"The only people we met were refugees, women of all ages, laden with bundles, crouching in the shadow of the street as we passed, or trudging wearily, hardly caring where they went. "At our destination there was nothing in the meantime, so we occupied the colonel's orders some of us rode back and turned in. "It was argued by the city that it was not liable for damages by reason that the accident occurred on the paved continuation and not on the sidewalk, but the chief justice declared that was an utterly untenable position. He held that as the city allowed the addition to be put down and become part of the sidewalk, it should take the responsibility."

The first appellate court list for today is: Kompenfeldt Land Co. v. Fox, Lytle v. Shearer, re Toronto General Hospital v. Sabiston.

Under Terrible Fire.
One who took part in the subsequent charge said the battalion rushed forward under terrible fire from machine guns and bursting high explosives, but the Canadians were fresh and had no fear. "I shall never forget looking round and seeing Col. Becher of London, apparently standing on the parapet of a trench, leading his men by voice and gesture," he said. "The colonel fell, struck by a bomb, and was carried to a hospital by stretcher-bearers, but did not live long. He was a popular officer and a hero, but all our officers, likewise the men, fought bravely. "I was at Ypres when the Germans

Stream of Wounded.
"During that Friday night it was one constant stream of wounded men coming in. The doctors, up to the eyes in work administered the serum needed as a safeguard against lockjaw, and then passed the wounded in for examination to the clearing hospitals further back. "At one particularly dangerous cross road beyond Ypres a German shell exploded and wounded two of our doctors severely that he soon afterwards died. "Another of our drivers was struck by a shell as he was working for some minutes sleep in his wagon close to our hospital."

Brotherly Messages?
"Now and then the Germans sent us winged messages of brotherly love in the shape of shells bursting within a few hundred yards of our quivers. When the first whistling of these shells was heard our colonel realized the danger to the scores of helpless men lying on stretchers in the village church. He called for volunteers and led the procession, and soon every patient was removed from the ecclesiastical target to a safer position on the outskirts of the village."

Transport by Fire.
"Both the colonel and myself bear a special grudge against the Germans because one of their shells, landing amongst our transport, killed his dead horse and mine. "The Germans seemed to single out the Canadian Field Ambulance for special attention. The buildings became unhealthy for wounded men, so the patients were helped out and loaded in ambulance wagons with all possible speed, and none too soon, for one shell crashed thru the roof of the hospital next to ours and another made an awful mess of a room in our building that had been filled with patients a quarter of an hour earlier."

BY THE SEASHORE.

A holiday by the seashore is the form of vacation most appreciated by thousands of people from the inland centres. Portland and its environs abound with attractions to suit all tastes, from the quiet retirement of Cape Elizabeth and Cushing's Island to Old Orchard and Kennebunk, popular chiefly for their beaches and surf bathing. "Mountains of New England and the Seaboard" issued by the Grand Trunk Railway System contains full information, complete list of hotels and boarding houses, etc., and may be had on application to C. E. Storring, district passenger agent, Union Station, Toronto, Ont.

FINNISH BRIGANTINE SUNK BY SUBMARINE

Crew Given Fifteen Minutes to Take to Boats by Enemy.

LONDON, June 24.—The Finnish brigantine *Leo* was sunk by a German submarine on Tuesday, 50 miles east of Fair Isle, Scotland. The crew were given 15 minutes in which to take to the boats. They have been landed at Lerwick.



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NEW LUSTRE ADDED TO CANADIAN ARMS

First Western Ontario Battalion Lost Heavily in Action Near La Basse.

TOOK THREE TRENCHES

Then Had to Fall Back Owing to Casualties and German Numbers.

Canadian Associated Press Cable.
LONDON, June 24.—The report received today from the front shows that the first western Ontario battalion, in action near La Basse, on the 15th inst., added further lustre to Canadian arms.

They were selected to act in co-operation with British troops in attacking a German position. Three trenches were their objective. They came from the rear, having had a rest preparatory to the onslaught, which took place in the evening. The Germans apparently had an idea that a serious attack was in the air and, as events proved, had made elaborate preparations for resistance. Probably at no time had the Canadians so many bombs at their disposal as on this occasion. The first enemy trench was only forty yards away from that occupied by the western Ontario battalion. The mine had been laid and its explosion was the signal for a forward movement on the part of the Canadians. The mine itself killed many Germans.

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One who took part in the subsequent charge said the battalion rushed forward under terrible fire from machine guns and bursting high explosives, but the Canadians were fresh and had no fear. "I shall never forget looking round and seeing Col. Becher of London, apparently standing on the parapet of a trench, leading his men by voice and gesture," he said. "The colonel fell, struck by a bomb, and was carried to a hospital by stretcher-bearers, but did not live long. He was a popular officer and a hero, but all our officers, likewise the men, fought bravely. "I was at Ypres when the Germans

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prior to the war, and which are usually shipped during normal trade conditions.

CONTRACTOR WON ACTION.

Judge Denton, in the county court yesterday, awarded judgment of \$220 and costs to George Thomas Smith, contractor, who brought suit against Henry Reader for \$880. This amount was claimed for services rendered in getting a site for and being instrumental in securing a license for the Belmont, a moving picture theatre on St. Clair avenue; also for preparing plans and supervising the erection and a balance of wages. The defendant claimed that he paid the plaintiff \$200 a week and considered that sufficient remuneration.

AMMUNITION SHORTAGE MAY PROLONG STRUGGLE

Neither Russia Nor Great Britain Yet Able to Put Full Strength Into Field.

LONDON, June 24.—The Times' military correspondent declares that neither Great Britain nor Russia has yet been able to put their full strength into the field for identical reasons—shortage of ammunition—and, owing to this, it may be necessary to postpone until next spring the final settlement with the Teutonic powers.

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