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

THE MELON SLIGHTLY CURTAILED.

At the annual meeting of the Canadian Pacific Railway Company shareholders held in Montreal on Wednesday, Sir William Van Horne announced that the new issue of $30,000,000 ordinary stock would take place on Nov. 15 next and that the price to shareholders would be $125 for each $100 of stock, altho the present market price is quoted round $188. The issue at a premium of 25 per cent. is however a partial concession of the principle advocated in the house of commons last session by Mr. W. F. Maclean, the member for South York. Notwithstanding his protest and that of the few members of parliament who supported him—notably Mr. Turriff and the late Dr. McIntyre of Strathcona—the government refused to withdraw their authorization of the issue even if it were to be at par. The railway authorities have, however, taken alarm at the volume of press and public dissatisfaction which the original proposal aroused and have endeavored to allay it by reducing the size of the melon. Instead of a slice equivalent to an immediate dividend of 88 per cent. on the new issue, the shareholders are offered one equal to sixty-three per cent. Or to put the deal as moderately as possible and assuming that the present price has been inflated by the anticipated melon cutting, it may fairly be put that the shareholders will be in a position to realize at least 50 per cent. on their allotments. The slice is substantial enough to gratify the most ravenous appetite, nor is it at all likely that the fact of their obtaining it at the expense of the public of Canada will interefere with their digestion.

Curiously enough in their annual report, the directors have themselves afforded an excellent opportunity to judge the effect of a stock issue at approximately market value. In the eighth paragraph of the report they say that "in January last your directors sold in the market the small residue of the last issue of common stock amounting to $3,984,000. The sale yielded a premium of $2,394,779, which will be used for additions and improvements to your property." This means that the issue brought slightly over 60 per cent. premium and the paragraph illustrates in a striking way the benefit derived from the principle supported by Mr. Maclean and those who stood with him on the floor of the house of commons. Had that January issue been made at a premium of 25 per cent. only, as the directors have decided to do with the new stock, the profit realized by the company would have been less than $1,000,000, and the balance of about $1,400,000 would have been placed at the disposition of the shareholders. Again supposing that the contemplated issue of $30,000,000 stock were made at 175 or 13 points below the market price to-day, a little over $17,000,000 would be added to the capitalization instead of $30,000,000. The public, thru freight and transportation charges, would thus only have to provide dividends on the smaller sum. As matters now stand and altho the melon cutting means a large bonus to the shareholders, the public will have to provide dividends on the full $30,000,000 in perpetuity. This is the way by which the C. P. R. directors serve their shareholders at the expense of the people of Canada.

This question of over-capitalization is now admitted to be of the highest importance to the state and to the citizens. The World has been directing attention to the declarations recently made by President Taft on this very point in connection with the interstate railroads of the United States. Among the policies to which the president now stands committed is one for an amendment of the Hepburn Act, subjecting railroads to regulatory laws, particularly as regards their stock and bond issue. That means, if he has his way, that the companies will be compelled to secure the approval of the federal commission for all proposed additions to their capitalization and that necessary funds must be raised in the manner least burdensome to the public. Responsibility now rests with the Dominion Government to impose similar restrictions on all Canadian railroads and thus ensure that the whole product of stock issues at proper market prices shall go into the treasuries of the companies and that their capitalization shall not be increased beyond the amount actually required to yield the sum needed for such legitimate extensions and improvements as are properly chargeable to capital account.

In the case of the C. P. R., the wrong that has been done the people of Canada is peculiarly glaring. The company has an accumulation of surplus income amounting to over $30,000,000 and the proposed issue was therefore unnecessary. But, if some additional capital was needed, it should have been raised by a bond issue at four per cent. There is not the least doubt that on a real accounting the company has been earning more than the ten per cent. on its ordinary stock required to bring it under federal control, and that the true earning power has been and is being concealed by accumulating surplus income and by the overloading of the capitalization thru the issue of common stock at less than its market value. The issue of stock at 25 per cent. premium in the light of present prices means at least a present of 50 per cent. to the shareholders of record if they choose to realize, or a greater ultimate profit if they hold against the anticipated increase in its dividend-paying power. An issue of bonds carries only its fixed interest and in that way secures that the claim of the people to reduced rates and charges as the profits increase, cannot be ignored or sidetracked. The issue of common stock made in January last, and the decision to issue the new stock at a premium, is a signal vindication of the attitude of the protesting members of parliament, when the matter was debated last session. With that admission before it, the federal government cannot evade the responsibility resting upon it to place all stock and bond issues contemplated by Canadian railroads under the control of the railway commission or some other competent board endowed with powers sufficient to protect the Canadian public from the consequences of unnecessary capitalization and from the practice of handing out huge periodic bonuses in a shape which prevents their true character from being at once perceived.

NOT BY A JUGFUL.

The Globe in its sly way is taking it for granted that the city is bound to make some kind of agreement with the Toronto radials for their entrances to the city, over the tracks of the street railway; in one of its headlines yesterday, dealing with the radial situation in the United States, it says, "The board of control should take a trip to Indianapolis before closing up any bargain for admission of the radials into Toronto." "There ain't going to be no bargain," until some other things are straightened out. As The World is trying to tell the people of Toronto, the issue is not the entrance of the radials, but the issue is the right to expropriate the street railway, and the right to remove the double fares that now obtain in the city, and the right to put all the tracks in the city into one franchise instead of as at present—one city franchise and five radial franchises in different portions of the city.

The New England Fish Company has sold Canadian business to the Canadian Fishing Company, Limited.

AT OSGOODE HALL

Osgoode Hall, Oct. 7, 1909.

Judges chambers will be held on Friday, 8th inst., at 11 a.m.

Pereptory list for divisional court for Friday, 8th inst., at 11 a.m.
1—Townsend v. Rumball (43).
2—Clarke v. Baillie (24).
3—U. E. Bank v. Roy (54).

Peremptory list for court of appeal for Friday, 8th inst., at 11 a.m.
1—Tait v. Snetsinger (16).
2—Thornton Smith v. Woodruff (24).
3—Fralick v. G. T. Railway (25).

Jury Assizes.

Peremptory list for jury assize court at city hall, Oct. 8, at 9.30 a.m.

Ford v. Canadian Express (continued).

Non-Jury Asizes.

Peremptory list for non-jury assize court at city hall, Friday, Oct. 8, at 10.30 a.m.

Pigott v. Guelph and Goderich Railway (continued).

Master's Chambers

Before Cartwright, K.C., Master.

Cooper v. Nugent—Davidson (Aylesworth & Co.) for execution creditors, moved for attaching order. Order granted, returnable 18the October.

Goldman v. Hurewich—L. C. Smith, for plaintiff, moved for final order of foreclosure. Order made.

Cavanagh v. McGann-Knox Milling Co.—H. W. Wallbridge, for plaintiff, moved for judgment. J. F. Boland, for defendants, contra. Enlarged by consent until 28th inst.

Reid v. Miller—S. S. Martin, for plaintiff, moved for order to serve defendant, who is absent in United States, with statement of claim, and to extend time for service until 15th November. Order made.

Merchants Bank v. Crawford—W. B. Milliken, for defendant, moved for a better affidavit on production. W. E. Middletonk, K.C., for plaintiff, contra. Reserved.

Huickxou v. Winslow—A. R. Clute, for plaintiff, moved for order transferring to county court of York. Order made.

Farwell v. Winslow—A. R. Clute, for plaintiff, moved for order transferring action to county court of York. Order made.

Keating v. Hamer—W. R. Wadsworth for defendant, moved to strike out statement of claim as embarassing. L. F. Heyd, K.C., for plaintiff, contra. Motion enlarged to allow of examination of parties to be treated as examination for discovery.

Lincoln National Bank v. Fox—J. F. Boland, for plaintiffs, moved for judgment. T. J. W. O'Connor, for defendants, contra. Motion dismissed. Costs to defendant in any event.

Greey v. Cochrane—Morrison (Henderson & D.), for plaintiff, moved for an order for the issue of a subpoena duces tecum to the registrar of deeds for the eastern division of the City of Toronto. Order made.

Vasilif v. Macdonald—Davis (Kilmer & Co.), for defendant, moved for an order for payment out to them of money paid into court as security for costs of appeal. Order made.

Ros v. Home Insurance Co.—H. E. Rose, K.C., for defendants, moved for order postponing trial. T. H. Barton, for plaintiff, contra. Order made. Costs in cause.

Judge's Chambers.

Before Falconbridge, C. J.

Stow v. Currie—F. Arnoldi, K.C., for Otisse Mining Co., moved for order dismissing motion to commit Norman Gzowski for refusal to answer certain questions on examination for discovery, the defendant having given the information since the motion was made. F. L. Bastedo, for plaintiff. Order granted. Costs in cause to applicant in any event.

Single Court.

Before Meredith, C. J.

Mr. James Gambde Wallace of Woodstock presented his patent as a King's Counsel and was called within the bar.

Lamont v. Wenger—G. H. Watson, K.C., for defendant, on his appeal from report of local master at Woodstock, asked enlargement. J. G. Wallace, K. C., for plaintiff, contra. Enlarged for two weeks on payment of costs of the day by appellant.

Re Storey Estate—W. T. J. Lee, for executors asked enlargement of his motion of construction of will, asked enlargement to serve additional parties. W. N. Ferguson, K.C., for widow. Enlarged for two weeks.

Stockdale v. Harris—E. J. Hearn, K. C., for plaintiff, moved to continue injunction. W. R. Smyth, K. C., for defendant, asked enlargement and that injunction be narrowed and plaintiff put on terms as to cross-examination. Enlarged for one week. Injunction continued meantime, but confined to restraining defendant from selling shares beyond what will leave in his hands sufficient to meet the demands of the plaintiff for one hadf thereof, if he succeeds, defendant undertaking that such shares shall be considered plaintiff's shares if he succeeds. Plaintiff to be produced for cross-examination not later than Monday next. Defendant to produce those making affidavits for cross-examination on three day's notice.

Watkins v. The Times.—J. Ogilvie, (Hamilton), for plaintiff, on motion to continue injunction granted by local judge at Hamilton, stated that parties desired enlargement on certain forms. Enlarged one week. Injunction continued meantime without prejudice to defendant's rights and position.

Douglas v. Greenberg.—R. R. Waddell, for plaintiff, asked enlargement of hi smotion to continue injunction for purposes of cross-examination. H. C. Macdonald, for defendant, contra. Enlarged for one week on payment of costs of day by plaintiff. Injunction continued meantime.

Re McGloghlin and Town of Dresden.—E. Bell, for applicant, a ratepayer, of Dresden, moved to quash a bylaw to raise $20,000 to build a school building. A. M. Lewis, K.C., for the council, contra. Judgment reserved to see if parties can adjust matters, counsel to intimate when they want a decision or whether they want it at all.

Colonial Investment and Loan Co. v. McKinley.—H. C. Macdonald, for defendant, moved for a reconveyance of property to the mortgagor, he having paid the money to redeem. A. McL. Macdonell, K.C., for plaintig, contra. Enlarged sine die to enable plaintiff to make an application to get rid of the judgment. If any delay the applicant may renew this motion.

Whitehorn v. Webb.—L. F. Heyd, K. C., for plaintiffs, widow and children of Whitehorn, who was accidentally killed by reason of a tree falling on him while it wa sbeing cut down by defendant's employes, asked court's approval of a consent judgment. J. W. Harcourt, K.C., for four infants. The official guardian being of opinion that the settlement is an advantageous one for the infants upon an affidavit being put in by plaintiff's counsel, that in his opinion the settlement is an advantageous one for plaintiffs, judgment to go approving of settlement at $150 and $50 costs, to be paid by defendants. The money to be apportioned $160 to widow, and $12.50 to each of the four infants, the infants' shares to be paid to widow for maintenance.

Fort William v. Ross.—C. J. Holman, K.C., for plaintiff, on motion to continue injunction stated that the action had been settled and the motion was discontinued. W. A. Dowler, K.C., for defendant. Motion struck out accordingly.

Cooper v. Heyd.—R. McKay, for plaintiff, on motion to continue injunction. L. F. Heyd, K.C., for defendant, counsel stating that action settled motion struck from list.
dell, for plaintiff, asked defendan tmeh
Before Falconbridge, C.J., Teetzel, J., Riddell, J.

Mr. Dyce W Saunders presented his patent as a king's counsel and was called within the bar.

Divisional Court.

Davidson v. Abond. — McGregor Young, K.C., for the defendants, on their appeal from the judgment of the district court of Nipissing, dated 23rd April, 1909. Grayson Smith, for the plaintiff, contra. Argument of appeal resumed from yesterday and judgment (V.V.) dismissing the appeal with costs.

Clarke v. Baillie.—W. N. Ferguson, K.C., for defendant, on his appeal from the judgment of MacMahon, J., dated 3rd May, 1909, moved on consent of respondents counsel for adjournments of motion until 8th inst. Enlarged until 8th inst.

Re Curry and Maclaren.—W. N. Ferguson, K.C., for appellant Curry, appealed from the order of Meredith, C.J., in chambers, dated 22nd June, 1909. R. S. Robertson (Stratford), for Maclaren. Appeal argued and judgment reserved.

Beal v. Michigan Central Ry.—D. W. Saunders and W. B. Kingsmill, for defendants, appealed from the judgment of MacMahon, J., dated 16th June. G. G. McPherson, K.C., for the plaintiffs, contra. The action was to recover $800 damages by reason of orchard contiguous thereto by a fire alleged to be caused by a locomotive of defendants. The defendants pleaded not guilty by statute. At the trial judgment was given for plaintiffs for $500, and costs, and defendants now appeal from that judgment.

Ryan v. McIntosh.—D. E. Thomson, K.C., for plaintiffs, appealed from the judgment of Britton, J., dated 12th July, 1909. J. M. Best (Seaforth), for defendants, contra. The plaintiffs were injured as alleged by being run over by a span of horses and heavy wagon, the property of the defendant, and they sued for $400 damages to Martin Ryan and $300 damages to Margaret Ryan in consequence. Defendants denied negligence. The action was dismissed without costs and plaintiff now appeals. Argued and reserved.

Finn v. Gosnell.—F. Arnoldi, K.C., for the defendants, appealed from the judgment of Mulock, C.J., dated 23rd December, 1908. W. J. Elliott, for plaintiff, opposed appeal, and cross appealed from same judgment. The action was brought to recover $453, being the balance alleged to be due plaintiff, as assignee of the same for removal of house known as 876 Bloor-street West Toronto. Defendant pleaded default on the part of Edward L. Finn in carrying out the contract, and that defendant had to spend large sums to complete the contract, and he counterclaimed for $436.06, so paid, as well as for $500 for damages for default of Edward L. Finn in carrying out the contract. The trial judge referred the case to J. S. Cartwright, official referee, for trial. The referee found a balance in favor of plaintiff of $90, and on appeal from this report, the chief justice increased the amount to $62.50, otherwise dismissing appeal. The appeal is from the latter judgment. Appeal argued and judgment reserved.

Court of Appeal.

Before Moss, C.J.O., Osler, J.A., Garrow, J.A., Maclaren, J.A., Meredith, J.A.

Coniagas Mines v. Town of Cobalt and Coniagas Mines v. Jacobson.—E. D. Armour, K.C., for appellants, in both cases. H. H. Collier, K.C., for respondents in both cases. Argument of appeals resumed from yesterday and concluded. Judgment reserved.

Rex v. Farrell.—E. Bayly, K.C., for the attorney-general, put in an affidavit by the sheriff of Peel of serviceon Farrell on 6th Oct. of notice of hearing case stated by the county judge. No one appealed for Farrell. Court held that notice insufficient and directed that notice be served on 8th inst. for hearing on 12st inst.

Tait v. Snetsinger.—S. Smith, K.C., stated that counsel would be ready to argue this motion on 8th inst. G. H. Watson, K.C., assents. Motion to be argued 8th inst.

Francis McGee, a Gloucester Township farmer, dropped dead in a field.