To the Trade

February 13.

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OF INTEREST TO ESTATE AGENTS.

The Divisional Court Decides Morson v. Burnside in Favor of the Agent—To-Day's List.

The Divisional Court handed out judgment yesterday in the appeal in Morson v. Burnside. The court reverses Judge Morgan's decision, and orders judgment entered for the plaintiff for $137.50 and interest and costs. This is an interesting case to real estate agents, as it decides what constitutes an agent's authority to act and right to receive commission. The facts are as follows: The plaintiff, A. E. Morson, was, to the knowledge of the defendant, J. T. M. Burnside, a land agent, and, knowing that the defendant had been willing to sell the house and lot, 91 Bellevue-avenue, for $6500, he telephoned to the defendant to know whether he was still willing to sell it at that price, telling him that he, the plaintiff, could then find a purchaser at that price, to which Mr. Burnside replied that the price was still $6500; whereupon the plaintiff entered the transaction in his books, advertised the property for sale, which resulted in his bringing Charles F. Moore to the defendant and introducing him as an intending purchaser. Moore took a lease of the property with right of purchase, which he subsequently exercised. The court, on appeal, holds that the purchaser was brought to the defendant's notice in the first place by Mr. Morson, and orders judgment accordingly.

Must Rebuild the Fence.

Mr. Justice MacMahon handed out judgment yesterday in the action of Morris et al v. Gotlib, tried by him at Hamilton, without a jury. This was an action brought by the trustees of the First Methodist Church of Hamilton against Harris Gotlib for trespass on the lot at the northeast corner of Main and Wellington-streets. By the judgment Gotlib is ordered to replace the fence, which he tore down, and is perpetually restrained from trespassing on the lot, and must pay the costs of the action.

That Hart Estate.

The Trust and Guarantee Company were given judgment yesterday by Justices Falconbridge and Street in their action against George Hart of Picton. Mr. Hart administered his father's estate to the extent of $20,000, when the company was appointed to take charge. It sued for the recovery of the above sum, but the justices decided in Hart's favor. Now the plaintiffs gain their point, after appeal to the Divisional Court.

Kelly v. Davidson Mfg. Co.

Mr. Justice MacMahon yesterday heard the argument of counsel in the matter of the evidence put in in the action of C. Kelly v. Davidson Manufacturing Company, tried at the Assizes last week. Judgment reserved.

To-Day's List.

Peremptory list for appeals to be heard by the Divisional Court to-day: Francis v. Longaway; Fraser v. Fraser; Mitchell v. Saylor; Whitman v. Sanders; re McDermott & Dunwich.

MISS EMILY ST. GEORGE BATES

Has Become Mrs. E. H. Fuller — A Wedding at St. Catharines.

St. Catharines, Feb. 12.—Miss Emily St. George, youngest daughter of Thomas B. Bates of this city, and Mr. T. H. Fuller of the Bank of Toronto, Montreal, eldest son of the late Charles Fuller of Toronto, were married here on Saturday afternoon in St. George's Church. Their bridesmaids were Miss Baxter of Cayuga and Miss King of St. Catharines. The Misses Taylor, Cole and Robertson were flower girls. Mr. E. N. Bates, brother of the bride, acted as groomsman. Messrs. Chatterson and Wood of the Bank of Toronto and Mr. B. Burson, St. Catharines, were ushers. Mr. and Mrs. Fuller will make Montreal their home after returning from their wedding tour.

Grand Tour of Mexico.

On Feb. 14, 1900, the Wabash Railroad Company will run a personally conducted and select party of fifty people for a 30-day tour through old Mexico. This will be by far the grandest and most comprehensive tour ever run by any railroad in America. This will be a chance of your life to visit this ancient land of the Montezumas. Every point of interest will be visited. The train will be the finest ever seen in this country, consisting of dining car, sleepers, observation and baggage cars, built especially for this trip. The route will be over ten different roads, covering seven thousand miles of travel. Full particulars of this wonderful trip from J. A. Richardson, District Passenger Agent, northeast corner King and Yonge-streets, Toronto. ed

$10—Washington and Return—$10, Via Lehigh Valley Railroad.

Wednesday, Feb. 21, the Lehigh Valley will run a special excursion from Suspension Bridge to Washington, tickets only $10 for the round trip, good for return until March 3, and good for stop off at Philadelphia and Baltimore. Trains leave Suspension Bridge, 7.20 a.m., 6.50 and 9 p.m. For tickets and full particulars call on Robert S. Lewis, Passenger Agent, 33 Yonge-street, Board Trade Building, Toronto. 61234612

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A NEW SYSTEM IN VOGUE AT BOARD OF CONTROL

Compound Meetings Mean Secret Sessions, Followed by Open Sessions, and Ratepayers See Only the Outside—St. Lawrence Market Improvements Are Discussed in This Manner.

It looks a settled thing now that compound meetings of the Board of Control will grow in favor—not with the public, but with the Controllers.

A compound meeting may be defined as a secret session followed by an open sitting, the two connected by a euphemism.

The euphemism is to call the first, and most important, half of the meeting a "conference."

This is how the definition will operate in the matter of the St. Lawrence Market improvements: The legal advisers of the city have informed the Controllers that they have full right and power to dismiss the architect. The majority of the Controllers prefer, according to their statements below, to treat the matter with policy. They may be acting wisely; but they have chosen to start their policy to work by holding a "conference" this morning with the "interested parties"—that is, to say, with the architect and his lawyer and the representatives of the Bridge Company.

The public meeting called for Wednesday will merely register the arrangement come to at this "conference," if arrangement be possible, which is not certain.

Controller Sheppard was asked yesterday whether his intelligence justified a private meeting with the "interested parties" in this work. "No," he replied; "emphatically, no."

It remains to be seen whether Controllers Sheppard and Spence will go into the "conference" at the eleventh hour, which is this morning.

BOARD OF CONTROL

Held Three Distinct Meetings Yesterday Over the St. Lawrence Market Piers.

The Board of Control held three sessions yesterday. The first was at 11 o'clock, on the call of the secretary, regularly and in writing. The second was a private consultation with the legal department. The third was a public meeting, which adjourned for a private conference to-day.

On starting in at the opening sederunt the Mayor said: "I find it necessary again, as usual, to refer to the newspapers.

Controller Spence: The poor newspapers!

The Mayor: We have again transgressed the views of The World newspaper—the editor of The World.

Controller Spence: Is that the official organ of the corporation?

The Mayor: The statements are utterly untrue. There was no public business done on Saturday and never will be any public business done at secret sessions of the Board of Control as long as I am at it. But sometimes it is necessary to consult our solicitor and other parties to learn their views and not have a lot of stuff in the newspapers about it; to arrive at an understanding of what some parties want. But all votes or public business, as long as I preside at this board, will be done in public.

Controller Sheppard: That is the view of all of us as to public business.

A Lightning Change.

The Mayor: As to this matter of the market, I thought we should have this meeting in private. I think we ought to consult our solicitor. A great many questions may arise, and have arisen, and, tho I don't think we ought to do anything in private, I do think we ought to have a consultation. If the editor of The World will consent, I think we ought to have it.

Controller Sheppard: I would like for my part to have an interview with the legal department from a legal standpoint. I want to know exactly where we stand. It is a very serious matter, and any steps we take must be taken with the utmost care, so as not to get ourselves in a mixture that we would regret afterwards.

Controller Spence: I understood we were to meet here to deal with this matter. If I thought there was any idea that it would have been necessary to consult the City Solicitor, I would have suggested that we consult him in the meantime, and come here to-day with all the information.

The Mayor: We had no time to consult him in the meantime.

Controller Spence: Let us meet the City Solicitor now and go with this business. This meeting was called for this purpose.

Controller Sheppard: Are you satisfied about our legal position?

Controller Spence: I am not going to express a legal opinion. But I have read all these papers over carefully, and I have not been struck with anything that seems to me to make delay essential. I am averse to postponing it, but if we take it up this afternoon I have no objection.

Controller Sheppard wound up another speech by saying he did not believe in rushing and finding a mistake when it was too late.

The Mayor: It has always been too late here.

Controller Sheppard: We had a meeting of the Board of Control or conference on Saturday, but we ought to deal with this question as a body.

It was then decided to consult the City Solicitor and meet at 2 o'clock in the afternoon.

An Agreeable Break.

The Separate School estimates were presented, showing a decrease, which fact struck the board as an agreeable break in the train of increasing estimates.

A letter was read from the City Solicitor asking that the Treasurer receive an appropriation of $500 to make up the difference between the sum of $5250 passed in Council for carpets and linoleums and $5740 expended by the architect.

Controller Spence: Mr. Mayor, I am not in favor of giving one cent more to this architect or for work on any account under him. Until we get him out first, we should have a stop to this extravagance.

The Mayor did not see what the board could do but pay the money.

Controller Spence: This is simply encouraging his propensity for enlarging and enlarging expenditure. Let us get rid of him first.

Controller Sheppard reminded his confrere that the matter had been authorized by Council.

The Mayor also made a sally at the expense of Spence as an opposition censor to The World.

Controller Spence: I am not responsible for any interpretations of what I say by The World newspaper or by the Mayor of Toronto.

The Mayor: We had better recommend the appropriation.

Controller Spence: I am on record against this appropriation. I would not give the architect one cent of money beyond what the Council authorized, and these bills, beyond the $5250, have not passed the Council.

Controller Sheppard said he was under a misapprehension, and if the bills had not passed the Council he would not vote for the appropriation.

The matter was then referred to the Committee on Property. But before the discussion closed Controller Sheppard took a crack at his brother Spence, who, he said, had approved of the famous dado.

Controller Spence: That statement does not contain one particle of truth. I did not, but Ald. Sheppard did.

Public Safety First.

On resuming at 2 o'clock, the Mayor said: I might make a little announcement in reference to the deliberations of the board. We ha da meeting with the Solicitor and the Corporation Counsel, and thoroly discussed this matter. We adopted no policy, but it seemed to be the consensus of opinion of the board that immediate action should be taken. First of all, our consideration should be the safety of human life, the safety of the public, the safety of ourselves. We don't want to be indicted for manslaughter. While our Solicitor advised us that our rights are conclusive as to our power in the matter, to dispense with the services of the present architect, and we are quite free to do that, it seemed to the board the best thing to do, on the other hand, as a matter of policy, that some arrangement be arrived at of the parties concerned to secure a building wherein the public can safely transact their business. It will take us some hours at least to make all necessary arrangements for a conference with the interested parties, and we might meet to-morrow or next day, and close the matter after coming to a satisfactory arrangement. But the view seemed to prevail that Mr. Siddall should have some very responsible architect associated with him in the matter. That can be arranged—perhaps more than one—to the satisfaction of all parties. Perhaps the difficulty can be minimized; it cannot be obviated. I think that is the situation. Nothing was done. Every member of the board is free to take any view or position in the matter as he feels disposed.

Thinks Siddall's Case is Strong.

Controller Spence: Mr. Mayor, as you know, I differed from the members of the board in regard to this matter. I did so, and I do so very reluctantly. I have given a great deal of attention to this matter. I have read carefully the eight reports, and particularly the document that is before us to-day—the reply of Mr. Siddall to the charges made against him. I admit there is a great deal of force in it. I think Mr. Siddall makes out a very strong case along the line in which he argues. He seems to come to the conclusion—his statements point to the conclusion—in the first place that Mr. Lennox and Mr. McCallum acted very badly. In their work they did not perfectly safeguard the interests of the city. The facts show that they saw and examined the plans which are now said to show the instability of the building, and, when they examined those plans, they did not point out the instability.

Spence Has Studied Them.

Mr. Spence then went on to quote the report of Messrs. Lennox and McCallum of April 25, 1899, and their subsequent report of May 12. He continued:

"After making that double report, they sent in the report in which they criticized these specifications in detail, and say that they had not the plans before them, and that they made their report without verifying the calculations. They made their report without having before them what any men of common sense would insist on having, and so they repudiate responsibility with regard to the stability of the building, the matters they ought to have reported upon and investigated. They drew their money and sent in their report, and said they did not see the plans when they ought to have known they were defective. We cannot get over the conclusion from Mr. Siddall's answer that Messrs. Lennox and McCallum are, morally and logically, responsible for the difficulty we are in to-day. The Board of Control of last year also acted very badly. They accepted a report that a little scrutiny ought to have shown was no report or one made with recklessness hardly imaginable. But all that has no effect upon the serious failure of Mr. Siddall to do his duty."

Mr. Spence here analyzed Architect Siddall's report, as well as the reports of the city experts, which united in finding the piers insufficient to carry the load. He also said that Mr. Siddall's own expert, Mr. Ogilvie of Montreal, practically condemned the work. Mr. Siddall himself stood alone. He concluded:

Should Be Responsible.

We should have it distinctly understood that men to whom we commit a public work should be held absolutely responsible in every detail of that work. We owe it to the people we represent that work should be so carried out. That applies not only to wilful wrong-doing, but it applies to serious blundering, which sometimes leads to evils which are greater. I think it would be a calamity if every architect, engineer or anybody else who enters into an agreement with the city should understand in a case such as this, that by an effort he could save himself and go on with the work after it was proved insufficient. I cannot see that we have any other duty than to recommend to the Council that Mr. Siddall be dismissed. The Council has the power to act.

Controller Sheppard made a long speech, in which he contended that Controller Spence had suggested no policy after the discharge of Mr. Siddall. "If he is discharged," said Mr. Sheppard, "we have not the plans of the work, so I am credibly informed, and we will have to get another architect, whose plans will be entirely different from Mr. Siddall's. Now, the contracts are all made according to the present plans, the iron work for the roof is all there, and any change will necessarily entail damages and law suits. That is the position we will place ourselves in."

A Second Architect.

Controller Sheppard then put himself on record as favoring the employment of another architect or architects to act as an advisory board with Mr. Siddall to have the construction of the building made absolutely safe. He said the advisory board could be paid out of $5000 held back from Mr. Siddall, and that Mr. Siddall should give consent to this proposition.

Controller Frame: I concur in the idea of Ald. Sheppard. His idea is the proper one.

Controller Spence replied that the city had paid Mr. Siddall for his plans and they belonged to the city.

The Mayor (to Mr. Siddall): Produce the plans immediately after the session in the Treasurer's office.

Controller Sheppard: I think we should avoid any trouble or litigation and the stoppage of work.

Controller Frame: I don't see why we should turn Mr. Siddall down without giving him a chance.

The Mayor: I was very much pleased with the masterly way in which Ald. Spence reviewed the facts, and I agree in every statement he made on the existing facts. But as to the policy or the wisdom of carrying out this resolution, I differ there. I quite concur in his suggestion that we should frown down any attempt to have foisted on us inferior professional services. These are times when we have to let results go to fight for principles. But I don't think this is a time like that. I think the results are so stupendous that we should get over this difficulty with the least possible friction and delay. Are we to fight for abstract principles and let go substantial advantages? Money has to be provided for this work, and not for these errors alone, but, as I am told by Mr. Spence, $50,000 after that ——

Controller Spence: What I say is that the original appropriations have been so far exceeded that the work will cost $50,000, or perhaps $100,000, more.

The Mayor: It is not our fault. We have had this thrust upon us by our predecessors, and we have to deal with it as we find it. I think it would be well to have a consultation with the different parties interested to see if an arrangement cannot be had whereby the city's interests will be protected as well as possible. We won't secure what is our own entirely, but we will lose as little as we can. I suggest a meeting here to-morrow forenoon to see if we cannot arrange a settlement to suit all parties.

Controller Spence's motion that the architect be dismissed was then put, and he himself only voted for it.

Walter Barwick wished to know whether the Bridge Company would stop work or go on.

The Mayor suggested that Mr. Barwick and Mr. Fullerton arrange this matter between them.

Controller Spence asked the Mayor if the meeting suggested was to be a meeting of the Board of Control.

The Mayor: It is a conference in the forenoon, and a public meeting of the board would be held on Wednesday at 2 o'clock.

Controller Frame: Why not have the conference now that the parties are all here?

Mr. Ross (of Johnston & Ross), in behalf of Mr. Siddall, said anything they would suggest at the conference he assumed would be along the line of Mr. Sheppard's argument.

Controller Sheppard: You must not assume anything of the kind.

Not another word was said, and the board adjourned to meet on Wednesday at 2 o'clock, the "conference with interested parties" to take place at 11 o'clock to-day.

Board of Control Estimates.

A summary of Board of Control estimated expenditures for 1900 was made out yesterday, as follows:

	1900.	1899.
Uncontrollable	$988,181	$969,369
Controllable.	252,381	249,454
	$1,240,562	$1,218,823

The net increase is $21,730, caused principally by increased charges on the city debt, and the expense caused by the presentation to the members of the second contingent for South Africa, and the insurance placed on their lives.

To Interview Mr. Ross.

The Ontario Municipal Association will meet Premier Ross in a conference at the Queen's Hotel on the 20th to urge its program and amendments to the Municipal Act. Mayor Macdonald has been invited by a circular from Mayor Teetzel of Hamilton, president of the association.

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(Continued in Wednesday's Issue.)

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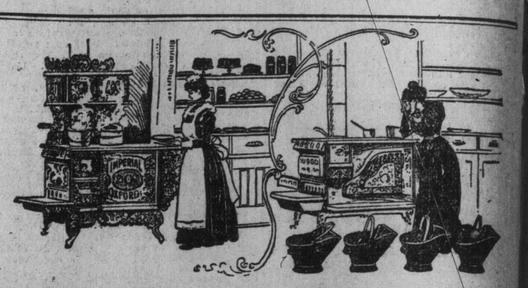

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