

## The Toronto World

Morning Newspaper Published Every Day in the Year.  
MAIN OFFICE, 85 YONGE STREET, TORONTO.

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### CORPORATION OFFENDERS.

Yesterday the court of appeal quashed the conviction recorded by Judge Winchester against the Grand Trunk Railway and Canadian Pacific Companies for their failure to protect the Bay-street crossing by means of gates and watchmen, as directed by the order of Nov. 2, 1897, issued by the railway committee of the city council of Canada. In delivering his opinion on the case presented Chief Justice Macdonald declared that there was a clear and inexcusable disregard of the terms of the order, and went on to remark that the failure of the defendants to observe the terms of the order may have led and probably did lead to the unhappy consequences which the evidence discloses. Evidently, therefore, the criminal default of the railway companies was, in the view of the court, proved; yet the conclusion was reached that for the consequences the defendants could not be held answerable in the proceedings actually taken.

The legal ground on which the appeal court acted as explained by Mr. Justice Britton, was the inapplicability of the sections of the criminal code upon which the complaint was based. The first two counts of the charge were laid under section 221 of the code, which defines a common nuisance, but the judges held that it did not apply and was not intended to apply to the subject matter of the complaint. Section 247 again, which defines the offence of persons in charge of anything which may endanger human life, was also held to be inapplicable, while the only other section of the code bearing on the issue the court held was inoperative by reason of the proviso excluding its operation where other penalties or modes of punishment are expressly provided by law. The proviso Mr. Justice Britton added expressly prevents the proceeding by indictment there before the court because section 427 of the Railway Act provides the penalty and a mode of enforcing it.

This section provides that any company or any director or officer thereof or other person acting for or employed by any railway company that does or omits to do anything contrary to the provisions of the Railway Act or any act under which it operates, or contrary to the orders or directions of the governor in council, or of the minister of railways, or of the board of railway commissioners, made under the Railway Act, shall, if no other penalty is provided, be liable for each such offence to a penalty of not less than \$20 and not more than \$500 in the discretion of the court. The terms of the section as quoted apparently require the order, breach of which involves the offence, to be made under the Railway Act of 1904. If this is so it would seem not to apply to an order made in 1897, and the railway companies cannot be punished for infringement of the order seeing the provisions of the criminal code have been held inapplicable. The situation again emphasizes the difficulty of securing convictions against corporate offenders and the necessity of having the law amended in the direction of simplification and the elimination of technical pitfalls. In ordinary criminal cases judgments are continually being amended to meet the charge as proved in evidence. And there ought to be an end put to the fiction that makes corporations separate persons in law. The official responsible for wilful neglect that leads directly to loss of life or injury to the person ought to be liable to all the pains and penalties imposed on the ordinary citizen whose offence indeed may be of far less gravity and importance.

**THE BICYCLE PERIL.**  
Every day the papers chronicle accidents of the street. Trolley cars, automobiles, horses, wagons and bicycles all constitute a peril which the wayfarer must face possibly dozens of times daily.

The trolley is supposed to furnish warning of approach and safeguards by means of gong, headlight and fender. The auto must carry a siren and signal lights fore and aft. The ordinary clatter and bulk of horse and wagon and the medium of pace are evidently counted on to give pedestrians a chance. But the bicycle is swift and silent and insidious. It flashes into sight and the mix-up is almost a simultaneous occurrence. It can maim and it can kill. Other cities have realized this and have demanded certain precautions from cyclists, which A. T. L. Church is now hopeful of having introduced in Toronto. In this he should have the support not only of his colleagues in council, but of those who wheel.

That payment of a nominal annual license fee and the use of bell and light is not reasonable, few will deny. The experiments of numerous other cities have amply demonstrated the wisdom of such regulation.

**GERMANY AND EUROPE.**  
Prussian ascendancy in German imperial councils although inevitable has never been wholly acceptable and according to late cablegrams, advancement is being taken by present public sentiment to secure a limitation of the Kaiser's constitutional powers. Under the constitution of 1871 the federal council and Reichstag must be summoned to meet every year and their consent is necessary in regard to treaties of a certain specified class. In all other cases the Kaiser can conclude treaties and alliances and has a free hand in the conduct of the imperial diplomacy.

The federal council, said to have been summoned at the instance of Bavaria and Saxony with the approval of Wurtemberg—the kings of these three states alone retaining under the constitution their sovereign rights as heads of their respective armies—consists of 58 delegates, appointed by the governments of the individual states for each session. Of the delegates 17 represent Prussia, six Bavaria, four sit for each of Wurtemberg and Baden, three each for Baden and Hesse, two each for Mecklenburg-Schwerin and Brunswick, and one each for the remaining states, including Hamburg, Lubeck and Bremen. Four commissioners, who have, however, no vote, represent Alsace-Lorraine.

Fortunately the Casablanca incident has taken a more pacific turn. The German foreign office has satisfied itself that the report made by the French police commissary was accurate when it stated that the German consular agent wore no official insignia. In this way the German department escapes from the necessity of maintaining its demand that a preliminary expression of regret for the diplomatic affront be first made and the whole question, both of law and fact, are now to be referred to arbitration. France in turn has agreed to the modification of the proposed mutual apology asked by Germany. Coming simultaneously with Premier Auzan's pacificatory speech at the Guild Hall this considerably relieves the crisis and it is to be hoped will pave the way for the introduction of a better understanding among the European powers hitherto at variance.

**CHATEL MORTGAGE ACTS VIRTUALLY DISAPPEAR.**  
Important Decision of Court of Appeal in Action of Johnston v. Wade.

The court of appeal delivered judgment yesterday in the action of Mrs. J. R. Johnston v. Oler Wade, a case arising out of the failure of the Poole Publishing Company, Limited, of which Mr. Wade was assigned. The effect of this decision might be said to be to virtually destroy the Chattel Mortgage Acts, legislation which has been developed and considered perfect for years.

Parker, Clark & McEvoy, who were solicitors for the plaintiff, Mrs. J. R. Johnston, advised a form of security known as a floating security, which in reality is as effective as a chattel mortgage and has many of the attributes of such a document. This particular form of charge does not need to be registered and in fact may be absolutely secret and yet cannot be set aside.

**Validity of Security.**  
At the trial of this case, Judge MacMahon decided in the action of the floating charge, but as the case virtually deprived the ordinary creditors of the estate of the bulk of the assets, while Mrs. Johnston, the holder of the floating charge, would be paid in full, the creditors decided to carry the matter to the court of appeal.

The case was argued last March and has been under deliberation by the court ever since. Four of the judges of the court of appeal handed out lengthy judgments in the matter, dissenting from the majority of the court. It is understood that the creditors will not take the matter to the supreme court, so that the law may now be regarded as settled on the point.

**Important Case.**  
The case, which was argued for Mrs. Johnston, the plaintiff, by George M. Clark, and for the creditors by R. S. Cassels, in undoubtedly one of the most important commercial cases decided in the last ten years and will probably greatly increase the time being commercial credits which are based largely on the necessity for registration and consequent publicity in case of all mortgages and charges on goods and chattels.

Oler Wade, the assignee of the Poole Publishing Company, was spoken to about the matter last evening and stated that he would at once take steps in the interests of the mercantile community to bring the matter to the attention of the attorney-general's department with a view to securing legislation at the next session of the house, requiring the registration of all documents of this kind.

**First Time in Courts.**  
The World called upon W. R. P. Parker in reference to the case. Mr. Parker said that this form of security was first prepared for a large mercantile company formerly carrying on business on Front Street East, and that the directors sought to rank as preferred creditors against the assets. This was resisted by the creditors, but the case ultimately settled out of court. The present instance is the first since that time in which the matter has come before the courts. In the case several of the leading counsel in the city were consulted by the creditors and gave their opinions against the validity of the securities.

When asked to sum up the net effect of the decision, Mr. Parker said that any such security company could now charge or hypothecate practically all of its assets to any creditor without the registration of any document, and quite without the knowledge of its other creditors. In view of the great and growing popularity of joint stock companies and the ease with which they can now be incorporated, it would appear to be a comparatively simple matter in most cases for a creditor desiring security to obtain it without the knowledge of the other creditors.

**OBITUARY**

**John Beatty.**  
John Beatty, for twenty-six years in the customs office, but lately in the superannuation list, died on Tuesday morning at his residence, 149 West Queen-street, he was 84 years of age. Up to June, 1907, he had enjoyed good health, but he suffered a paralytic stroke, and since that time he gradually failed, until on Saturday morning he passed into a state of coma and never recovered from it. For many years he was superintendent of the York toll road, owned by his son, James Beatty, editor and proprietor of The Leader and Patriot, one of the first conservative newspapers published in Toronto. When he moved to Parkdale there were only two houses in the district. Mr. Beatty leaves three children, James, P. Beatty, Mrs. Malcolm Macnair, and Mrs. George Brown, all of Toronto. The funeral will take place on Thursday afternoon at 2 o'clock at Mount Pleasant.

**At St. Louis.**—Dr. David de Camp Thompson of Chicago, aged 56, editor of The Northwestern Christian Advocate, as the result of an automobile accident, Monday night, in which he suffered a broken arm and nervous shock.

**Parkdale C. I. Commencement.**  
The annual commencement exercises of Jameson-avenue Collegiate Institute will be held on Friday afternoon at 2 o'clock. President Falconer of the university, H. S. Arden, B.A., president of the Graduates' Association, will give addresses. The valedictory will be delivered by Clive Harcourt Carruthers, who then will be a graduates' memorial by Maclean Kirkwood and Miss Eva M. Laws. Miss Gertrude Wright will read an essay on "The Future of Art."

The prize list is as follows: The "Helen MacMath" prize, Fred Beckman, science, form IV.; the "Ryckman-Sykes" prize, David Brodie, French, form III.; the "P. C. I." prize, Clive H. Carruthers, English and history, form IV.; the "Carruthers" prize, Clive H. Carruthers, Latin and Greek, form IV.; the "L. E. Embree" prize, Robert G. Beattie, English, form III.; the "P. C. I." prize, duplicated by Miss Spence, Gertrude Wright.

**Received by Ursulines.**  
Miss Dwyer, B.A., Toronto, and Miss Strickland of Port Hope, were formally received into the Ursuline community at Chatham.

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## ARCHBISHOP McEVAY'S POINTER TO STUDENTS

Says Canada Now Needs Three Hundred More Catholic Priests.

Archbishop McEvay presided at the commencement day exercises of the De La Salle Institute yesterday afternoon. The assembly hall was crowded, many being unable to get nearer than the corridors. An excellent musical, ecclesiastical and calisthenic program was given by the students.

Archbishop McEvay said that after the singing of the boys during the afternoon he would not accept the excuse from any of the parish priests of Toronto that they could not get singers for their choirs.

Teachers and students alike, of De La Salle, were to be congratulated on the success attained by the prize winners, and on the general excellence of the educational standard attained. He had one important statement to make which would probably be news to the public in general. This was that there is a great shortage of priests in Canada at the present time, at least three hundred more priests were needed. The students from De La Salle bear this in mind. The call to the priesthood should first be direct from God, and it is the highest honor a man can receive. Many are prevented accepting it, some personally reject the call, while the stinginess of parents is not infrequently the cause of the call being ignored.

Whether the students heard this divine call in their own hearts or not, there was the call to all of them to always deport themselves as Christian gentlemen. This was a duty which students could not in public afford to forget. Let them remember, for instance, that the streets were for the public to travel upon. He wished the institute increasing success.

Rev. Father McEgan, Superintendent Powers and Fred, Boland also extended congratulations.

**Graduating Students.**  
The graduating students were:

Junior matriculation in arts—Francis Morland, Bertram Kearns and William Kelly.

Partial junior matriculation—Percy Conway, Vincent Ryan and John Shaw. Commercial—Robert Stormont, John Neville, Weldon Marle, Rudolph Tountant, Harold Campbell and Eugene Landreville.

**The Prize List.**  
The list of prizes awarded was as follows:

Special prize presented by His Grace Archbishop McEvay for the graduation pupil obtaining highest marks in Christian doctrine: awarded to Robert Stormont.

Gold medal presented by Eugene O'Keefe for proficiency: awarded to Harold Campbell.

Gold watch presented by J. J. Seitz for shorthand and typewriting: awarded to Weldon Marle.

Gold medal presented by Rev. Father Kelly of Barrie for English: presented to William Kelly.

Gold medal presented by James T. Dea of Milwaukee for French: awarded to Master Bertram Kearns.

Gold medal presented by Mrs. J. McLean for French: awarded to Master Ruyard Lalonde for being first from St. Michael's School at entrance examination.

Gold medal presented by Rev. Father Walsh, awarded to Master George O'Leary for being first from St. Francis' School at entrance examination.

Gold medal awarded to Wm. Hand for being first from St. Mary's School at entrance examination.

Gold watch presented by C. J. McCabe, awarded to Master Ferguson Ellard for being second from St. Helen's School at entrance examination.

Prize for Christian doctrine, form I, presented by Rev. Father Kelly; awarded to Master Leo Ryan.

Prize for Christian doctrine, form II, presented by Rev. Father O'Malley; awarded to Master Walter Brooks.

Class prizes for proficiency presented by Mr. Charles of United Typewriting Co.; awarded in form I, to Master Leo Ryan.

Form II, junior division—Master James Moran.

Form II, senior division—Master Michael Brown.

Junior commercial class—Master Thomas O'Brien.

**O'Keefe's**

"Gold Label" ALE

The New O'K Brew.

A treat in hops and malt. Rich and old and creamy.

Remember to ask for O'Keefe's "Gold Label" Ale—O'Keefe's new brew.

10

**Michie's**

West India Cocktails

Afford an opportunity to have at home—and always ready—a pleasant mixed drink, and the blending is skillfully done according to an excellent recipe.

75c a Bottle.

**MICHIE & CO., Ltd.**

7 KING STREET WEST

## THE T. EATON CO. LIMITED

Protect the Horse With A Good Warm Blanket



Very large assortment now ready, representing the best products of standard makers. And values are certainly noteworthy:

Take the Dollar Jutes Blanket—lined, shaped and strapped—of a quality that will withstand heavy weather and tough usage. This for ..... 1.00

Other Jutes Blankets run up to .. 3.50

A Dutch Blanket, with good warm lining, shaped and strapped, with double stay-on, for ..... 1.75

And others up to ..... 4.75

Wool Blankets—very latest patterns and colors, strapped or square, at, each, \$1.75 to ..... 6.50

These Blankets in the Harness Department. We would also remind Horsemen that we make our own Harness and can quote you positively best prices.

—BASEMENT.

## An Extra Good Reefer For Men

They're made from the genuine Irish frieze—a dark Oxford grey; double-breasted, storm collar, lining of heavy tweed. Sizes 36 to 44. A garment of exceptional wear and superior construction through and through. Price.... 8.50

## And These Two Striking Values In Overcoats

For \$10.00 a Black Melton Overcoat of imported, well-finished cloth. A fashionable Chesterfield model, 46 inches long, with deep back vent and velvet collar. Good quality Italian linings. Sizes 34 to 44. Price ..... 10.00

Heavy Winter Overcoat with deep fur collar, \$14.98! The cloth is black melton; coat 52 inches long and double-breasted; lined with Italian cloth, interlined with wadding, and quilted throughout; the collar is of German otter; coat fastens with barrel buttons, and in every way is of inviting appearance. Sizes 36 to 46. Price... 14.98

## Inviting Prices on Boys' Winter Suits

The winter clothing stocks have been heavily reinforced to meet the broadest demands of young people.

The showing of Three-piece Winter Suits for the bigger boys is especially strong in variety of materials and sturdy, honest tailoring. These examples:

At \$3.87—Double-breasted style, neat grey mixed tweed, strong Italian lining, knee pants, sizes 28 to 33.

At \$4.00—Warm, serviceable tweeds in dark striped effects; strong Italian lining.

\$4.50 and \$5.00—Heavy imported tweeds; single and double-breasted styles; knee pants; sizes 28 to 33.

## Men's Fur-Lined Coats Closely Priced

The fur factory that is a part of this store stands for all that's best in fur tailoring and for the elimination of all that's doubtful in fur wearables.

A typical example is given in this particular coat. The collar is of extra quality dark Canadian otter; lining of No. 1 spring muskrat, evenly matched skins, full furled; shell of very fine Indigo-dyed beaver cloth. Cut in new full box style. Priced at ..... 75.00

## A Stylish Soft Hat For Men

One of the newest and dressiest shapes of the season comes in a pretty shade of green, with darker band, and the new silk-bound edge. Has a roll brim and is worn with dip front; the crown is high and tapering, and may be worn either telescope or fedora shape. Made of genuine fur felt. 2.50

—MAIN FLOOR—QUEEN ST.

## Men's Fine Mufflers

A large assortment in the smartest and newest designs. All the new colors. See them in the Handkerchief Section. Prices from ..... 25 to 3.00

Main Floor—Centre

## THE T. EATON CO. LIMITED

190 YONGE STREET TORONTO

Smoke  
**Old Gold**  
Cigarettes  
Sweet and Mild  
5c