The Toronto World

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THURSDAY MORNING, JULY 18, 1912.

A LAME DUCK.

There is apparently a great deal of anxiety on the part of the city fathers to get the Street Railway Company out of the hole it is in. So far as this is dictated by anxiety for the convenience of the citizens, it is quite right and proper. Any courtesy that can conveniently and fairly be rendered to the Street Railway Company by the city could not be objected to either. But beyond this it should not be forgotten that the relations existing between the city and the company are of a strictly business nature, provided for by a contract, the terms of which, so far as they favor the citizens, the company has been at no great pains to observe. The company has never made more than a nominal attempt to supply all its passengers with seats, or to grapple with the shortage in cars. Its policy has, in fact, been to run the system on the cheapest possible basis. As a result of that policy we have had the recent series of breakdowns.

And when the city fathers meet for the purpose of helping the company out of the hole its cheap policy has got it into, the citizens may well wonder if the sympathy is aimed in the right direction.

The city hall is deeply interested in the hydro-electric system, which is a rival of the Electrical Development system. It may be chivalry, but it isn't business to propose to help the Street Railway Company out of its mess and hazard the safety of the hydro-electric system by tying it up with its insufficiently protected rival.

For years the Electrical Development Company and its friends prophesied ruin for the hydro-electric project. Every means that could be brought to bear upon it in the way of opposition, political, legal, financial, social, was directed against its success. And now when it is the opposition system that breaks down, the hydro-electric, upon which the city and the province, including all the allied municipalities, have risked their credit and their business, is to be asked to pull the chestnuts out of the fire. The Ontario municipalities which are linked up with the hydro system may very well ask what they have done to be placed at the mercy of the Toronto Street Railway and its friends of the Electrical Development Company.

If the city hall people want to do the best they can for the citizens they will treat the situation in a business-like way. And that will be to act toward the Electrical Development Company exactly as it would have acted towards hydro had the hydro been the lame duck.

THAT PECK OF DIRT.

Dr. Hastings is no believer in the ancient tradition that every man has to eat a peck of dirt during his life. Or at all events he will draw the line strictly at one peck. According to the practice of the Toronto stores a man may reasonably expect to consume several bushels of dirt before he has long been a citizen of this fair city. And while people may admire Toronto immensely as a scenic display, they do not want to get too much of its fair scenery mixed up in their anatomy.

The man or woman who likes to eat dirt may object to Dr. Hastings' sensible regulations. And the man who wants other people to eat his dirt and pay for it, too, does obect to Dr. Hastings' regulations. But the sense of the community is behind the regulations about protecting food from dust and dirt and flies and dogs and tobacco juice and all the other unconsidered trifles that make up the atmosphere of a business street.

The fruit men are objecting, and they ought to know better. Most people wash their berries before eating them, but the less there is to wash off the healthier will be the community.

Flying dust and unprotected fruit or food means the spread of consumption, typhoid and all the other deadly sins of society. Dr. Hastings is acting on the scientific conclusion that disease is the sin of neglect, and Toronto citizens should make a note of it and mind.

WHERE THE AMERICANS LEAD.

Our Dominion Railway Act and our Dominion Railway Commission were modeled to some extent upon the U.S. Inter-state Commerce Act and the U.S. Inter-state Commerce Commission. The Canadian Commission should be the more effective because parliament has wider powers than congress and the courts have little opportunity to interfere with the Canadian Railway Commission. In 1906 the express companies were declared by congress to be common carriers and were placed under the jurisdiction of the Inter-state, Commerce Commission; shortly after, at the session of 1906-7 parliament amended the Railway Act so as to bring our express companies under the Dominion Railway Commission.

Many complaints were filed at Ottawa and Washington alike against the express companies. In Canada these complaints were so numerous that a general investigation into the whole subject, of express company rates was ordered, and about a year ago a voluminous opinion was handed down by the late Judge Mabee, then chairman of the commission. This opinion traced the history of the express companies and clearly set forth the enormous profits they had made and then ordered a horizontal reduction of something like 20 per cent. in the tariff of tolls. The companies, however, were allowed to continue their complicated, obscure, and arbitrary classifications, and we venture to say that the ordinary citizen has in fact obtained no relief from the order of the commission. The ordinary citizen going into an express office is at the mercy of the express company's agent.

The other day the Inter-state Commerce Commission had occasion to deal with grievances of the people against the United States express companies. Its judgment was handed down after an investigation extending over three years' time. Not only are rates reduced on many small packages as much as 50 per cent., but the entire express business is revolutionized. The commission divides the United States into blocks or zones, fixing a uniform rate between all points in the same zone, and establishing rates from each zone to every other zone in the country, so that a man entering an express office can ascertain positively what he ought to pay upon his package, and is not dependent upon the say-so of the agent. Moreover, the order requires every package to be routed by the shortest and most direct route and no extra charge is to be imposed because two or more companies may handle the consignment. The order, in short, accomplishes a real reform which will be understood and appreciated by all the citizens of the country.

Another striking difference between the procedure of the two commissions in these analagous cases is to be noted in the widespread publicity given to the order of the Washington commission and the opinion upon which it is grounded. The judgment, decree, and opinion by Commissioner Lane occupies a book of 378 pages. This book is plainly printed with maps and diagrams and the opinion of the commissioner, which contains the kernel of the whole affair, is condensed into half a dozen pages of trenchant, epigrammatic English, setting forth clearly the many forms of extortion practised by the express companies and the remedy prescribed therefor by the commission. We do not remember ever seeing Chairman Mabee's opinion in type, and it certainly was not circulated to any considerable extent.

It may be said without disrespect to his associates that the late chairman did an enormous amount of work and that the labors of the commission were not divided, as they might have been, between the various members. On the Inter-state Commerce Commission each member seems to do a great deal of work unaided. Thus we find one man in Chicago enquiring into sleeping car rates and another at Washington enquiring into express rates, a third pursuing some other important line of enquiry in another part of the country. Our commission seems to move more slowly and to have too much of the formality of a court. In the express enquiry in the United States, Mr. Commissioner Lane personally visited express company offices and verified by observation the many complaints made to the commission.

We believe that our Dominion Railway Commission might profitably study the work of the U.S. Commission in this matter of express rates. We believe also, without depreciating the good work done by our own railway commission in the past, that it might be more alert and expeditious. Possibly it requires more expert assistance, but certain it is that the commission is not yet realizing all the hopes which were entertained for it. It has been unfortunate in losing three chairmen in a few years, and it may be that the members and perhaps the public as well have come to rely too much upon the chairman for all initiative.

IS IT A FAIR TEST?

The Democratic national platform lays down a doctrine we have heard preached in Canada, namely, that no protection by way of a tariff should be extended, or continued, to products which are sold more cheaply abroad than in the country of their manufacture. This means in effect that the manufacturer who asks for a protective duty must retire altogether from the export trade. Every country except Britain, where he is likely to find the market, maintains a tariff, and he usually has to pay this duty before he can compete with the manufacturer in the importing country.

Subtracting transportation and tariff changes from the selling price, it will in nearly every case appear that the United States and Canadian manufacturers alike get lower prices abroad than they do at home. It is said that steel rails manufactured in Nova Scotia can be purchased, freight and duty paid, at a less price in Sydney, New South Wales, than in Sydney, Nova Scotia, and the Panama Canal commission saved a large sum for the U. S. Government by importing Pittsburg rails from London. Prices must come down in a competitive market and thus it happens that coal is cheaper in Montreal than it is in Halifax.

Then, again, in the United States and Canada alike, the tariff is arranged so as to make it possible for the domestic manufacturer to sell cheaper abroad. Thru the drawback privileges of the Customs Act he imports, practically duty free, all material used in the manufacture of articles exported to foreign countries. Thus the Minneapolis miller gets a drawback of 99 per cent. on the duty paid by him upon hard wheat from Canada, provided he ships the flour into whose manufacture it enters, to the British or some other foreign market. But he gets no refund from the duty of thirty cents per bushel he pays upon Canadian wheat if the flour made therefrom is sold in the United States.

It is contended, however, and with some plausibility, that the manufacturer should be permitted to sell at cost, or below cost, in the foreign market, because he is thus enabled to keep his men always at work without disturbing prices in the home market by overproduction. That it is advantageous for the manufacturer to sell at slaughter prices, from time to time, in foreign countries, is evidenced by the anti-dumping clause of our Customs Act, which was passed by parliament, with the approval of both parties, for the express purpose of preventing a disturbance of our markets from bargain sales of surplus stock by American manufacturers.

Tariff revision may be necessary, but the protection needed by the Canadian manufacturer cannot, in all cases at least, be determined by the price for which he sells his product abroad. For the sake of advertisement, for the sake of opening a new market, or for other good business reasons, he may sell a small part of his output abroad, at prices which would be ruinous if applied to the bulk of his output intended for sale in the home market. Still, in some lines of Canadian manufacture, it may be shown that a large percentage of the output is able to pay a stiff duty and even then to compete in the United States market. It is upon the assumption that agricultural implements made in Canada are largely sold thruout the world for lower prices than in Canada, that the western farmers insist upon a reduction in whole or in part of the tariff duty.

A suggestion from The Cobalt Nugget is to the effect that the government should take $100,000 and start an experimental sheep and berry farm along the T. & N. O. Railway. The Nugget believes that from North Bay to Cobalt the providential intention is to turn the land into sheep and berry ranches.

A memorial is very properly being erected to Burrell Heacock, the Cleveland boy, who offered his life at Niagara last February on the chance of being able to save Mrs. Eldridge Stanton. Before the proposed inscription is finally adopted it might be well to bring out the undoubted fact that it was on Mrs. Stanton's account he turned back, and not, as suggested by the wording as published, to rescue Mr. Stanton. Mr. Stanton himself behaved with a loving heroism which might well be commemorated on the same tablet.

"THE OLD COUNTRYMAN."

This weekly, which presents its tenth number this morning, is, as usual, full of good things and well worthy of perusal. It offers comment, often trenchant, but always well weighed and worthy of consideration on the outstanding, topical, up-to-date moment matters affecting this city. It has some readable articles on subjects of wider scope and import, and a sufficient seasoning of sound humor, with reviews of matters in lighter vein. These are equally enjoyable by their light crispness and the matter they, nevertheless, furnish for more than the passing laugh. In our opinion it is a publication to be strongly recommended, especially to old countrymen.

LABOR UNREST IN JUNE.

OTTAWA, July 17.—(Can. Press.)—The record maintained in the department of labor shows industrial conditions to have been disturbed to a considerable extent by trade disputes during June, the numbers of disputes and the number of employes thrown out of work by such disputes being greater than those of the preceding month and also greater than those of June, 1911.

Thirty-seven disputes were reported to the department as having been in existence during June, as compared with twenty-nine during May, and twenty-seven in existence during June a year ago. About three hundred firms and fifteen thousand employes were affected by these disputes, the majority of which were not terminated before the end of the month.

Belleville's Downtown Station.

Toronto people who go to Belleville over the Canadian Northern Ontario are keenly appreciative of the fact that the station of this line is located down on the waterfront, easily within five minutes' walk of the business and residential districts and of the principal hotels of the old city. From Trenton, where closest connection is made for Picton, Wellington-on-the-Lake, and all other Central Ontario Railway points, the C. N. O. skirts the shore of the Bay of Quinte, and its trains enter Belleville at the loveliest as well as the most convenient point, cutting across the fine old waterfront park, just before they reach the depot.

The passenger steps from his train to a platform where the cool lake breezes sweep—no dust, no heat, and all the discomforts usual to a railway station absent. The walk up town is a matter of pleasure.

There is a Canadian Northern Ontario train of superior equipment which leaves the Union Station for Belleville and intermediate points at 9.30 a.m., and another at 5.40 in the evening, splendid hours for the business man and the regular traveler. Returning in the morning, there is a train leaving Belleville 7.38 a.m., and another at 5.15 p.m., the most convenient hours which the passenger department could select. On Saturdays a train departs from Toronto at 2 p.m., returning to the city Sunday night. This Saturday and Sunday service affords a splendid opportunity to visit relatives or friends in Prince Edward County without loss of time, and connections are effected at Trenton to all points along the Central Ontario line. 2345

At Osgoode Hall

ANNOUNCEMENTS

July 17, 1912.

Motions set down for single court for Thursday, 18th inst., at 10 a.m.:
1. Re City of Toronto and Applebaum.
2. Burrows v. Miller.
3. Kirk v. Kirk.
4. Bustard v. Godfrey.
5. Thomas v. Truett.
6. Werry v. Bell.

Judge's Chambers will be held immediately after conclusion of court.

Master's Chambers.

Before Geo. S. Holmsted, K.C., Registrar.

Gertzbein v. Bell.—McRae (G. M. Gardiner) for defendant. Birnbaum for plaintiff. Motion by defendant for an order setting aside statement of claim delivered in vacation without leave. It appearing that statement was not intended to be delivered, but only left with plaintiff's solicitor for his perusal, no order except that disbursements in issuing order (70c) be in the cause to defendant.

Charlebois v. Martin.—H. Ferguson for plaintiff. A. J. R. Snow, K.C., for defendant Martin. Motion by plaintiff for an order that garnishee pay over the debt attached. At plaintiff's request enlarged one week to allow of cross-examination and to take further evidence.

Leckie v. Marshall.—R. B. Henderson for Arthur Ross. Motion by Arthur Ross for a stop order against moneys in court, out of which applicant claims to be entitled to a commission on the sale of the lands in question. Order made.

Bishop Construction Co. v. Peterboro. —F. E. Brown for plaintiff. J. G. Smith for defendants. Motion by plaintiff for an order adding the water commissioners of Peterboro as parties defendant. Order made. Parties added to be in same position as to pleading statute of limitations as if action as against them was commenced at date of their being added. Costs of motion in cause.

Re Rogerson.—A. E. H. Creswicke, K.C., for executors. Motion by executors for leave to pay $2000 into court under Trustee Relief Act. Order made for payment in less costs of application fixed at $20.

Rex ex rel Strain v. Kennedy.—J. G. Smith for plaintiff. J. Mitchell for defendant. Motion by relator for an order declaring defendant disqualified from acting as councillor of the Township of Tisdale. Enlarged for one week at defendant's request, he by his counsel undertaking not to exercise his office meantime.

Hiplop v. Rheinhardt.—E. E. Wallace for plaintiff. E. W. Boyd for defendant. Motion by plaintiff for judgment under C.R. 603. By agreement judgment to go for $535, with leave to plaintiff to proceed for balance. All costs reserved to trial judge. Order not to issue until 20th inst.

Walker v. Canada Flour Mills.—G. H. Sedgewick for defendant. Motion by defendant on consent for an order dismissing action without costs. Order made.

Clarkson v. Fulton.—R. B. Henderson for plaintiff. Motion by plaintiff for an order extending time for delivery of statement of claim for one week. Order made.

Harris Abattoir v. McKistin.—Macaulay for plaintiff. Motion by plaintiff for a final order of foreclosure. Order made.

Birnbaum & Finlay.—R. W. Hart for plaintiff. Motion by plaintiff for an order amending writ by altering name of defendants from the name of the firm to that of the persons composing the firm. Order made. Plaintiff to pay costs of motion in any event.

Judges' Chambers.

Before Kelly, J.

Re Dominion Milling Co.—B. N. Davis for applicant; D. I. Grant for liquidator. A motion by mortgagee for liberty to continue sale proceedings interrupted by the assignment of the company, and the appointment of a liquidator. Judgment: The applicant appears to have advertised the property extensively, and to have given reasonable opportunity to possible purchasers to appear at the sale; he is in danger of losing the benefit of the sale if there be further delay, and I think the property is one not readily saleable. Unless the liquidator, not later than 12 o'clock noon, on July 17, pay the amount properly due to the applicant on this claim, including the costs and disbursements of the sale, and the costs of this application, or give the applicant satisfactory security for such payment, the applicant is to be at liberty forthwith thereafter to continue the sale proceedings and carry out the sale, and he will be entitled to add to his claim the costs of this application.

Re Catharine Watson and Canadian Home Circles—J. Fraser for executor of will of Catharine Watson; J. E. Jones for society; F. W. Harcourt, K. C., for infant. Motion by executors of will of Catharine A. M. Watson, for advice under C. R. 938. Judgment: My view is that a change as to the beneficiaries and an altering of the apportionment of the moneys has been effected by the will, and that the moneys represented by this certificate are to be divided as directed by the will. The shares of these moneys to which the infants are entitled will be paid into court, to be paid out to all parties out of the fund.

Gundy v. Johnston—S. Denison, K.C., for defendant; H. S. White for plaintiff. An appeal by defendant from the judgment or order of the local judge at Chatham, of July 6, 1912, awarding summary judgment against defendant. Judgment: The judgment should, in my opinion, be set aside. The money should not be withdrawn from or paid over by the township pending the determination of the questions in dispute. Costs of this application and of the motion for judgment now set aside are reserved, to be disposed of at the trial or other final disposition of the matter.

Single Court.

Before Kelly, J.

Douglas v. Bullen—A. McT. Macdonell, K.C., for plaintiff; F. C. Snider for defendant. Motion by plaintiff for an order continuing the injunction of June 12 last, until the trial. Judgment: It will not be of service to either party to continue the injunction already granted restraining defendant from entering on plaintiff's lands, etc., as the matter in dispute is what land at the place in question belongs to the plaintiff. To finally dispose of the dispute involves the settlement of the ownership of the disputed land and the fixing of the true boundary between what is owned by plaintiff and defendant respectively. This cannot be done on the present application. I therefore dismiss the application to continue the injunction, leaving the parties to whatever rights they may be able to establish at the trial. Costs of application reserved, to be disposed of by the trial judge.

Trial

Before Falconbridge, C.J.

Fuller v. Maynard—G. Kappele, K.C., for plaintiff; A. J. R. Snow, K.C., for defendant. An action for specific performance. Judgment: Judged by the authorities, the plaintiff fails to qualify himself to invoke the interposition of the court by way of specific performance, even if the other issues involved were decided in his favor, e.g., if there was no valid rescission by defendant. Therefore I will not decree specific performance, and as to this his action stands dismissed. But he will have judgment for the $500 paid on account. This was in the present state of the real estate market, a minor, nay, an inconsiderable side issue. The disposition of the costs will therefore be that defendant shall have full costs minus the sum of $50, representing costs of the issue as to the $500. Defendant will retain the balance of his costs of the $500. Thirty days' stay.

Before Kelly, J.

Gray v. Buchan—Plaintiff in person. A. G. Slaght (Haileybury) for defendant. An action for rescission of a contract for sale of stock and for return of money paid by plaintiff on account of same. Judgment: I have come to the conclusion that plaintiff is not entitled to succeed. Dealing in stocks was not new to him. A full explanation of defendant's methods, terms, conditions and rules of business in dealing in such stocks, etc., was given to him before he entered on the purchase. Had he promptly responded to the demand of defendants by forwarding the amount required to keep up the margin, as agreed upon, the stock no doubt would not have been sold, or, if after such payment defendants had sold it, he would have had a good cause of complaint against them. Plaintiff knew, or should have known, the meaning of the bargain which he made and the consequences of his failure to keep up the payments. Judgment dismissing the action with costs, and allowing the defendants the amount of their counter claim, $18.10.

Everley v. Dunkley—J. A. Walker, K.C., and M. Houston (Chatham) for plaintiff. W. G. Richards (Chatham) for defendant Dunkley. O. L. Lewis for defendant the Canadian Bank of Commerce. An action by the executor of the last will of Elizabeth Kenny, claiming $542.17, and an injunction restraining defendants from dealing in any manner with these moneys, which were on deposit with defendant the bank at the time of Elizabeth Kenny's death. Judgment: I find that there was no intention on the part of the mother to make the daughter the owner, or part owner, of the money, or to give it to her by survivorship; the money continued to belong to the mother and on her death it became part of her estate. The bank took upon itself too much when it altered the bank account as it did. The bank, too, had notice before any of the money was drawn out, that there was trouble contemplated over the ownership of it, but it disregarded the warning and allowed the account to be transferred into the name of the daughter, and a considerable portion of the money to be afterwards drawn by her. The bank as well as its co-defendants is liable to the plaintiff for the amount of the deposit (less, however, the sums which Esther Dunkley has paid as the funeral expenses and doctor's bills of the deceased), with interest from the commencement of the action. Defendants are restrained from dealing with these moneys otherwise than to pay them to the plaintiff. Judgment accordingly with costs.

Divisional Court.

Before Falconbridge, C.J.; Britton, J.; Riddell, J.

Zock v. Clayton—E. D. Armour, K. C., for defendants. M. C. Cameron for plaintiff. An appeal by plaintiff from the judgment of Latchford, J., of March 2d, 1912. An action for possession of a certain island in Belgar Lake and for an injunction restraining defendants from entering on some, or attempting to deal with same. At trial judgment was given plaintiff as asked with costs, except costs of day on removal into high court. Judgment: The minister of lands, forests and mines, before the issue of defendant's patent, considered and disposed of the claim arising under Zock's patent, and thereupon defendants received the certificate of title. That the court cannot review his finding and judgment is well settled. But in view of the very strong opinion of the trial judge, that statements not only false, but false to the knowledge of Clayton, were made by him to the department, whereby the officials were misled and the minister's judgment practically obtained by fraud, and of the further fact that in the present case a prior patent issued to the plaintiff, I agree that the attorney-general should have an opportunity to intervene herein. The plaintiff will notify him accordingly. If the attorney-general signifies his intention not to intervene, this appeal will be allowed with costs and the action dismissed with costs. If the attorney-general should decide to be heard or to adduce evidence or to cross-examine witnesses already called, he may be added as a party, and arrangements may be made either for a reargument or for hearing the new evidence. Judgment will be withheld until the attorney-general shall have determined what course he will take. Britton, J., is of opinion that the appeal should be allowed and the action dismissed with costs.

WIRELESS WILL NEVER SLEEP.

WASHINGTON, July 17. — (Can. Press.)—The conference report of the new wireless law framed from the lessons of the Titanic disaster and requiring wireless operators on duty constantly aboard ships was adopted by the house to-day, and now requires only the president's signature to make it law.

IN QUEST OF PENNY POSTAGE.

LONDON, July 17.—(C.A.P.)—While in Paris the Hon. L. P. Pelletier will urge penny postage between France and Canada, tho it is conceded the question is a difficult one in view of the fact that a regulation has not been brought about as between France and England.