The Toronto World

A Morning Newspaper Published Every Day in the Year.

A HAPPY SOLUTION.

Matter it is for congratulation that the long struggle for the preservation of the old fort has reached a happy termination. It might be well to remember while other disputes are being carried on that there is always a way out. At all events the arrangement by which an eastern entrance for the street cars is to be obtained to the exhibition by Tecumseth-street solves a long standing problem, and while meeting the convenience of the public and the welfare of the city, also consults the too frequently slighted sentiment of the community.

"He is the true cosmopolite who loves his native country best," sang Tennyson, and the preservation of the relics and memorials of the past is all that gives patriotic feeling distinctness and vigor. As prophets have no honor in their own country so the really casual events have little recognition in their own time. Only the perspective of history gives them that relative importance which is patent at the time only to the contemporary few. The events of the war of 1812-1814 in America were naturally overshadowed by the Peninsular campaign, and the Napoleonic cloud which had not yet been dissipated in Europe.

As Canadians come to understand their own place in history, their peculiar relation to the race as a whole, their independent stream of evolution and national destiny, and the influences that set them apart for the special duty they have in the world, such monuments as the old fort will be more carefully guarded and more intelligently honored.

The plan by which the street cars pass near but not thru the fort is one that fulfils the requirements of accessibility as well as security. No doubt as time passes it will be possible to reclaim the whole area once occupied by the fort, now so disfigured and encumbered, and to restore it approximately to its original condition. In days to come the spot will be the hallowed covenant ground of a great city.

CITIZEN FIRST.

Controller Geary is one of the bright young men of the city council. He was head boy at Upper Canada College once. People expect some sense from him. He has had a legal training, however, and The World has no other explanation at hand for his attitude on the proposal to press for an amendment to the Railway Act, making it clear that the board of commissioners has power to deal with charges of discrimination in suburban services and commutation rates. He thought it was needless, until the matter went before the courts, to make any change in the law.

Controller Geary must learn to sink the lawyer in the citizen. The law represents the will of the people. When, owing to the limitations of lawmakers or the frailty of human intellect, an act of parliament proves to mean something quite different from what was intended or fails to provide for every contingency, which latter is clearly the case in this matter of commutation rates and suburban service, then what Controller Geary needs to do is to forget the legal superstition that an act of parliament is holy writ, or even as the law of the Medes and Persians and to exercise his citizen sense on the quickest way of getting it put right. The way of the supreme court and the privy council means months or even years. Parliament, which made the act imperfectly, can make it right at short notice, and thus save delay and futile expense. Possibly neither of these last considerations appeals to the legal mind, but both should to a public representative.

U. S. MEAT COMBINE IN BRITAIN.

Canadian free trade organs are in use to affirm that combines are an impossibility in Britain because the people have the open market of the world to buy from. The proposition is very far from being self-evident, and the reason annexed is too vague and general in its terms to serve its ostensible purpose. Combines are perfectly possible in a free trade country, tho with an open market they must necessarily extend to all, or at least the principal, sources from which the particular commodity affected is derived. If Britain happened to be the only producer of any given article, a combine to enhance its price would be just as easy there as elsewhere and the same thing would happen in any other line if supplies from outside markets were controlled.

Recently there has been considerable talk in Britain over the existence of a combination in the meat trade and a departmental committee was appointed in July, 1908, to investigate the home market conditions. Its report was issued on Wednesday, and tho the committee find that a combination exists to a certain extent among four American companies engaged in business in the United Kingdom, it is not thought to be at present sufficiently powerful seriously to endanger the beef trade as a whole. But should these firms acquire, as seems possible to the committee, considerable interest in Argentina, the situation that might then arise is described as serious, and the report adds: "With such command of practically the whole imported live cattle and chilled and frozen beef trade, the firms composing such combination might be able to determine beef prices at Smithfield Market itself, and largely affect prices thruout the country." Evidently the departmental committee does not regard this as impossible.

Representatives of the United States companies examined by the committee professed ignorance of the conditions prevalent in that country. The committee felt themselves bound to express grave doubt as to the reality of this uniform ignorance and indicate that its assumption throws doubt upon the other statements made by these representatives. While the committee does not think that an attempt has yet been made to capture or control the whole beef trade in Britain, "it is satisfied that the firms mentioned consult together with regard to prices and the amount of the supplies to be put on the market and that they fixed the price at which chilled beef shall be sold in the provinces. Furthermore, that provincial salesmen are practically bound to sell at the price daily dictated by the Americans." The report finds also that the American companies have a practical monopoly of cattle steamers from the United States.

If four foreign companies, acting in concert, fixing the amount of supplies to be put on the British market and dictating daily the price to be charged thruout the United Kingdom, do not constitute a combination and one effective for its purpose, it is difficult to understand what else is necessary before one is constituted. Britain depends so largely on foreign imports that their supply really controls prices and tho an unduly high price would inure to the British farmer and stockraiser, the greater proportion of the benefit would be derived by the importing combination. Apparently the committee have been hampered, to some extent at least, in their conclusions, by the free trade policy of the country and the difficulty of devising any method of meeting a combination of importers save by extending a measure of protection to the British producer, and in this way increasing home cattle production. For it is evident that when prices are fixed by foreigners the knowledge that they can at any moment break prices, will keep home farmers and stockraisers from venturing on stronger competition. This report will add fuel to the flame of the tariff reform movement.

SUPPORT ALDERMAN MAGUIRE.

Alderman Maguire proposes to submit a motion before the fire and light committee to the effect that no more buildings be licensed as moving picture theatres unless situated on corners permitting of proper egress. This is a highly proper restriction against which there can be no valid objection. Too much laxity has existed in thepast over the all important matter of the public safety. There are buildings in the city which are insufficiently provided with the means for rapid and easy departure and there are others where the regulations as to constant readiness are not too much honored in the observance.

Moving picture shows properly conducted can offer both instructive and wholesome amusement. They are cheap and attractive to youthful minds. An audience largely composed of children is not easy to handle in the event of a panic, but of whatever nature the audience is, there should be ample exits to more than one street or lane of sufficient breadth. Whatever regulations are deemed requisite for the public safety should be rigidly and constantly enforced and immunity should not lead to relaxation. Alderman Maguire's motion should be heartily supported by the committee.

A BICYCLE REVIVAL.

The bicycle a few years ago was all the rage both for men and women as well as children; then somewhat of a fall-off came in its use; the "fad" began to wane; prices dropped in consequence; a good many people said that the bicycle had had its day. Things now are changing, the bicycle is coming into its own once again, and we believe permanently,or until a much better substitute is devised. So far, it is the cheapest, quickest and most reliable aid to getting about of anything yet invented; all it asks for is a fair road. Its mechanism is simple, it has no engine or supplies, it is easily repaired, its cost is now standardized to little more than actual outlay, and it is within the reach of everybody. It goes over city streets, over country roads, along lanes and almost any place when the weather is fairly good. Certainly for nine months of the year in Ontario it is invaluable to those who employ it.

The World notices with satisfaction that the manufacturing houses who have stuck to the bicycle now find a satisfactory improvement in business and the public are taking more and more to this useful aid in quick transit.

Grocer Assigns.

George W. Davey, grocer, of 652 West Queen-street, has assigned for the benefit of his creditors to Richard Tew.

IN THE LAW COURTS

ANNOUNCEMENTS.

Osgoode Hall, May 14, 1909.

Single court will be held Monday, 17th, at 10 a.m.

Peremptory list for divisional court for Monday, 17th inst., at 11 a.m.:

1. Rex v. Miller.
2. Union Trust v. Kenner.
3. Weston v. Perry.
4. Delorso v. Macdonell.
5. Wade v. Livingston.
6. Castle v. Kowrd.

Court of appeal sittings ended and court adjourned until September sittings.

Master's Chambers.

Before Cartwright, K.C., Master.

Smith v. Clergue.—J. D. Montgomery, for plaintiff, on motion to examine B. J. Clergue for discovery. H. S. White, for defendant, contra. Judgment (L.) Mr. Clergue has made an affidavit denying that he is now or was at a ny time during the past fifteen years a clerk or employe of the defendant, altho in the absence of his brother (the defendant) he has attended to some few matters for him in this province. He has never received any remuneration for his services, nor does he expect to do so. He further denies any transfer made by defendant to him or to any one else so far as he knows.

It does not appear that Mr. B. J. Clergue is either a clerk or an employe, and the motion must be dismissed with costs, including costs of previous motion. Mr. Clergue's full and frank depositions show that he was only acting as a brother should do and trying to help the other brother in difficulties.

Rex ex rel Hewson v. Riddell.—J. B. Mackenzie, for the relator. C. R. McKeown, K.C., for the respondent. Judgment (L.). At the last election, held on the 4th January, 1909, the relator and the respondent were the candidates for the office of reeve for the Town of Orangeville. The respondent was declared elected by a majority of two votes on a total of 666 given for that office, and his election sustained on a recount before the county judge. The relator moves to have the election set aside or to have it declared that he was entitled to the office. Here it is impossible to say how many votes were actually cast or who has really obtained the majority owing to the unfortunate discrepancy of the two ballot papers in the count of the returning officer and the D.R.O., the change of the totals after the agents had left by the addition of the three ballots under the lamp, the taking of the ballot box and papers to the house of the D.R.O., the three ballots being always loose and not put into any packet and the omission to comply with the directions of section 167. The qualification of the respondent was also attacked. I have not thought it necessary to deal with this point as the election must be set aside, but if the respondent is again a candidate it will be in his interest to consider if there is any force in the objections taken by the counsel for the relator. Costs are to follow the event.

Grant v. The Manufacturer's Life.—H. T. Beck, for plaintiff, moved on consent for an order dismissing action without costs and for payment out to plaintiff of money paid in as security for costs. Order made.

Quinn v. Quinn.—J. MacGregor, for plaintiff, moved for an order to set aside order dismissing action for want of prosecution. R. R. Waddell, for defendant, asked enlargment for a week. Enlarged until 21st instant.

Vanderberg v. Township of Markham.—A. G. F. Lawrence, for plaintiff, moved for an order to amend statement of claim, and record. McGregor Young, K.C., for defendants. Order made. Costs to the defendants in any event.

Re Anette Osman and Trustees Relief Act.—W. J. Clark, for Imperial Bank, renewed motion for order for payment into court of a sum of $1783.49 less their costs. W. T. J. Lee, for administrator of Osman, alias Korra. Order made for payment to administrator. Costs of applicants fixed at $25.

Goold v. Kenney.—J. T. White, for defendant, moved to transfer action to county court of the County of Lennox and Addington. F. Muir (Brantford), for plaintiff, contra. Reserved.

Payne v. Griffiths.—Grayson Smith, for judgment creditors, moved for attaching order. J. H. Spence, for garnishees, admits $206.75 in their hands for one M. H. Griffiths. Matter enlarged to allow notice to be given to Margaret Helen Griffiths, and order made for substitutional service of same on her father, returnable in 15 days after service. Costs of garnishees fixed at $15.

Rasch v. Heckler.—E. Meek, K.C., for plaintiff, appeared to oppose motion for security for costs. No one for motion. Stands.

Judges' Chambers.

Before Teetzel, J.

Re Vaughan.—F. W. Harcourt, K.C., moved for leave to pay $327.53 received from executors into court. Order made.

Re Braithwaite.—F. W. Harcourt, K.C., moved for leave to pay into court the sum of $1684.11, and to deposit a mortgage for $2000. Order made.

Re Gardner.—F. W. Harcourt, K.C., moved for leave to pay $1144.59 into court and to deposit a mortgage for $4000. Order made.

Re File.—F. W. Harcourt, K.C., moved for leave to pay into court $1359.72 received from executor. Order made.

Re Mary Carlyle.—F. W. Harcourt, K.C., moved for payment in accordance with terms of order of Dec. 23, 1907.

Re Bull.—T. Bull moved for an order for payment out of interest for maintenance. F. W. Harcourt, K.C., for infant. Order made.

Re Green—Green v. Green.—F. W. Harcourt, K.C., moved for allowance of $200 for infant's maintenance. Order made.

Re Blackmore.—G. R. Geary, K.C., for executors, moved for an order allowing one-half income for maintenance of Reginald Blackmore, an infant. Order made.

Re McLeod and the Board of Education.—F. E. Hodgins, K.C., moved for an order for payment out of amounts in schedules A and B of report. G. Grant, for one of the parties, who is appealing from the report, contra. Order confirming report and for payment out as asked, reserving Mr. Grant's client's rights.

Re Hicks—G. Grant moved for an order for payment out of insurance money. Order made.

Re McGeehan, a lunatic—F. McCarthy moved for an order for payment out to Margaret Ann Casey, administratrix. J. F. Edgar, for inspector of prisons and public charities. Order made.

Re Denison Estate—McGregor Young, K.C., moved for an order allowing $300 a year for John Denison. F. W. Harcourt, K.C. Order made for $250 a year from Jan. 1, 1909, until further order, to John Denison.

Re Simons—R. G. Smyth, for widow, moved for an order for payment out of half of the fund and the balance in one year. F. W. Harcourt, K.C., for infant. Order made.

Re Lock—J. T. Richardson, for the administrator, moved for an order allowing purchase of property by him. F. W. Harcourt, K.C., for infants. Order made for the sale, with approval of the official guardian.

Re McIndoo—S. Denison moved for an order for payment out of $60 a year until majority. F. W. Harcourt, K.C., for infant. Order made.

Re Grimsby Park Co.—L. F. Stephens (Hamilton), for Bank of Hamilton, a creditor, moved for a winding up order. G. F. Shepley, K.C., for Mr. Gripton, asked enlargement. E. F. Lazier for a shareholder. G. R. Geary, K.C., for some shareholders. J. H. Denton for other shareholders. Rev. E. A. Chown, in person. Order made. The Mercantile Trusts Co. appointed interim liquidator. Reference to master at Hamilton. Costs of all parties out of estate.

Macdonnell v. Macdonnell—J. F. Boland, for administrator, moved for an order for payment of claims, etc. F. W. Harcourt, K.C., for infants. Referred to the clerk in chambers to report on claims.

Re Copp Estate—R. C. H. Cassels moved for an order distributing estate. F. W. Harcourt, K.C., for infant. Enlarged for one week.

Re Sayer—F. McCarthy, for T. G. T. Corporation, moved for an order approving of payment of $16 a month for maintenance. F. W. Harcourt, K.C., for infants. Order made.

Re Hobbs, a lunatic—S. Denison moved for confirmation of report, etc. Order made.

The King v. Renaud—J. A. MacIntosh moved for leave to appeal from the order of Meredith C. J. J. R. Cartwright, K.C., for the crown. Application refused. No costs.

Re Carty Infants—F. E. Hodgins, K.C., for uncle of infants. F. W. Harcourt, K.C., for infants. Motion stands for one week to examine infants.

Marsh v. Spauer—J. A. MacIntosh, for James Robinson, an execution creditor, appealed from the order of the local judge at Kenora. G. R Geary, K.C., for defendant, contra. Enlarged till Tuesday next.

Re Cornwall Brewing Company—F. Aylesworth moved for order to wind up. J. A. MacIntosh, for another petitioner. Order made. Reference to local master at Cornwall. J. C. Milligan appointed interim liquidator.

Re McHutcheon and C.O.F.—A. L. Baird (Brantford), for sisters of the insured, moved for payment out to them. Grayson Smith, for widow, contra. Reserved.

Golley v. Core—C. J. Holman, K.C., for defendant. Berger, appealed from the order of the master in chambers of May 7, 1909. A. R. Clute, for plaintiffs, contra. Order that examination take place at county town in Illinois. Time to amend statement of defence extended for one week from to-day. Costs in cause unless otherwise ordered by trial judge. Defendant to be at liberty to use evidence taken on commission at the trial.

Bank of Ottawa v. McIlwain—F. E. Hodgins, K.C., for plaintiffs, moved to strike out jury notice. G. H. Sedgewick, for defendant, contra. Order striking out the jury notice. Costs in the cause.

Re Canadian McVicker Engine Company—J. F. Boland, for the liquidator, moved for leave to appeal to the court of appeal from order of divisional court. M. A. Secord (Galt), contra. Application refused. Costs out of estate.

Single Court.

Before Latchford, J.

Burkle v. Peaslee—F. W. Griffiths (Niagara Falls), for defendant, Peaslee, on appeal from report of local master at Welland of Feb. 11 last. T. D. Cowper (Welland), for plaintiff, contra. Judgment (L). In foreclosure proceedings the master found due to the plaintiff on the two mortgages in question $12,963.16. The master specially finds, as directed by the judgment, that the actual amount of cash advanced upon the mortgage for $12,000 appealed from was the sum of $5491.83, and he also specially finds at the request of the plaintiff that such mortgage is a good subsisting security for the entire amount found due upon it to date of report, $11,000.37. The report as to the other mortgage is not appealed against.

Peaslee contends that the plaintiff is not entitled to recover upon the mortgage any sum but what may be due with interest upon the amount advanced in cash, $5491.83. It is impossible, I think, to give effect to this contention. The inclusion of the estimated share of the profits in the expressed consideration for the mortgage was proper under the circumstances. Peaslee was unable to provide funds to complete the purchase. He induced Burkle to make the necessary advance to carry out the transaction, on condition of Burkle's quarter interest in the estimated profits being included. Appeal dismissed with costs.

Trial.

Before Latchford, J.

Telmie v. Michigan Central Railway—J. M. Glenn, K.C., for plaintiff. D. W. Saunders and W. B. Kingsmill for defendants. Judgment (L.). On Nov. 19, 1907, the plaintiff, a grain merchant at Rodney, shipped a car of wheat from that village by the defendants' railway, consigned to the Traders' Bank at Dutton for one Hollingshead. The wheat was delivered by defendants, not to the Traders' Bank, but to Hollingshead. It was three months before plaintiff knew this, and it then came to his knowledge by the bank charging back to him the dishonored drafts on Hollingshead. No explanation has been made as to how defendants delivered these cars without the bills of lading. On March 30 Hollingshead made an assignment for the benefit of his creditors. The plaintiff filed no claim with the assignee. No written notice of his loss was given to defendants, until his solicitor wrote that he was instructed to bring suit. The defendants admit delivery of wheat to Hollingshead in breach of their contract to deliver to Traders' Bank, but plead freedom from liability by reason of condition three endorsed on the bill of lading. The defendants are liable, but only for the value of the 900 bushels expressed to have been received by them for carriage and delivery. Judgment for plaintiff for $864, with interest from Dec. 2, 1908, and costs.

Court of Appeal.

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

Fewings v. G. T. R. Co.—D. L. McCarthy, K.C., for defendants, appellants. G. H. Watson, K.C., for plaintiff, respondent. Argument of appeal resumed from yesterday and concluded. Judgment reserved.

In re Toronto Cream and Butter Co.—I. F. Hellmuth, K.C., and J. R. Meredith for liquidator; appeal by leave of the chancellor from his judgment of April 21, 1909. G. Bell, K.C., for Luxton, a creditor, contra. This was an appeal from an order whereby one Arthur George Hayman Luxton, suing on behalf of himself and all other creditors, was given leave to join as defendants to an intended action the appellants Osler Wade, liquidator of Toronto Cream and Butter Co., and Toronto Cream and Butter Co., which action is intended to be brought to set aside a certain agreement dated June 1, 1905, and for consequential or alternative relief. The agreement in question transferred to the appellant company all the assets and business as a going concern of the Toronto Cream and Butter Co., two partnership businesses owned by Annie E. Clark, and the appellant company covenanted with the said Annie E. Clark to pay the debts and obligations of the said partnership business. The respondent is an execution creditor of the said Annie E. Clark, whose debt is unsatisfied and who made a claim to rank as a creditor on the estate of Toronto Cream and Butter Co., but whose claim after contestation was disallowed with costs. Judgment reserved.

Writs Issued.

H. J. Hamilton is suing John Townsend to recover $2850 for alleged negligent driving of the defendant.

Harry Champion sues the Boake Mfg. Co. to recover $4000 for personal injuries alleged to be due to defects in the defendant's plant.

The Sterling Bank sues A. E. Thomas and H. C. Thomas of St. Thomas and E. A. Krachling of Toronto to recover $2907.23, balance alleged due under a guarantee of the indebtedness of A. E. Thomas, St. Thomas.

John W. Litton of Kingston, is plaintiff in an action against the Avenue-road Presbyterian Church, formerly known as the Church of the Covenant, to recover $5312.10, balance alleged to be due on a masonry, plastering and carpentering account for $43,312.10. The suit is against the trustees and the building committee.

Mrs. Pauline V. Meyer of 1801 West Queen-street has entered action to recover for loss by fire under policies in the Independent Fire Insurance Company, the Connecticut Fire Insurance Company, and the York Fire Insurance Company.

Victoria Day Excursion Rates.

The Canadian Northern Ontario will issue return tickets to all stations and to Muskoka Lakes and other tourist points at single fare for the round trip. Good going May 21st, 22nd and 24th, returning until May 26th, 1909.

Ticket offices corner King and Toronto-streets and Union Station.

Money to Charities.

The late Mary Elizabeth Wright, who died on April 30, left an estate valued at $9942. A sister, Matilda Frances Campbell of Windsor, receives $4000; the rector of Trinity Church for home missions, $200; Sick Children's Hospital, $100; Toronto Free Home for Consumptives, $200; Wycliffe College, $200, and the residue to nephews and nieces

BABY KILLED BY A RAT.

OTTAWA, May 14.—Death as the result of the bite of a rat while asleep in its cradle was the sad fate of little Eugene Jambeau, the 9-days-old son of Mr. and Mrs. Eugene Jambeau of 134 Besserer-street.

Get Ready For Nice Outing to Muskoka, Lake of Bays, Temagami or Cobalt, Victoria Day.

Tickets at single fare for round trip will be issued May 21 to 24, good returning until May 26. The Grand Trunk "Muskoka Special" starts Saturday, May 22, at 10.15 a.m., or by leaving Friday night, 10.15 p.m., in sleeper to Muskoka Wharf, the Muskoka Navigation Company will run special steamer at 7 a.m. from Muskoka Wharf.

For Lake of Bays leave Toronto 10.15 p.m. or 8 a.m., and for Temagami and Cobalt, leave at 10.15 p.m. The wonderful silver fields of the north are well worth visiting.

Further information can be obtained by calling at city ticket office, northwest corner King and Yonge-streets. Phone Main 4209.