WAS MAYNARD BEATEN?

OFFICIALS AGAIN SWEAR THAT HE WAS NOT.

On Behalf of the Government, Dr. Bruce Smith Held an Inquiry Into the Charges at Cobourg Yesterday.

(Special Despatch to The Globe.)

Cobourg, Feb. 18.—Dr. Bruce Smith conducted an official examination under oath this afternoon into the Maynard charges. Reeve Tole represented Bowmanville Town Council, but the responsibility for presenting the charges of ill-usage at the County House of Refuge was largely left to friends of Mr. Maynard. Chief of Police Jarvis was present from Bowmanville, and Dr. Tilley.

From the Counties Council there were Warden Powers, Colonel J. Hughes Clarke, and Reeve Wolfueim, members of the Counties Board of Management; Colonel Neil F. MacNachtan, Clerk; Dr. Elliott, House of Refuge physician.

Mr. Maynard, who, it appears, has a wife living from whom he is separated, his two daughters, Mrs. Myers and Mrs. Botterill, and the former's husband, and a son, William Maynard, gave evidence as to the old man's physical condition before he came to the institution, and told of finding the marks on his body after his return, and of his ears having been frozen.

Dr. Tilley, in his evidence, said the marks on the body might have been caused by a fall or from being struck.

Mr. John McMillan, Superintendent, again denied that there was a whip about the institution. No complaints of ill-usage had been made to him. He told of the arrangements of the bed in order to make the old man as comfortable as possible owing to his physical condition. The morning that Maynard had been taken to the train was very cold. His ears might have frozen then. Peter Riley and John Tfaffhouser again under oath denied that there were any whips at the institution or that they had struck Maynard. Two inmates, Alex. Scoon and Thos. Mutton, testified that Maynard had not slept on a wire mattress without covering. Annie Howlett, a servant, bore out this testimony.

Counties Clerk MacNachtan said he visited the institution weekly. He had asked the inmates if they had complaints and had never heard any.

Dr. Bruce Smith, with Dr. Tilley, have examined Mr. Maynard, and the former will forward a copy of the evidence taken and his report to the Provincial Secretary.

MUST BUILD PROMPTLY.

NEW PROVISION INTRODUCED IN RAILWAY BILL.

Winnipeg & Northwestern Railway Company Required to Build Twenty-five Miles of Road This Year or Forfeit Charter.

(Special Despatch to The Globe.)

Ottawa, Feb. 18.—The Railway Committee of the Commons this morning referred to a special committee bills providing for union stations and other joint facilities for the G.T.R. and C.P.R. at Fort William and for the G.T.P. & Midland Railway at Portage la Prairie. A new precedent was established in connection with the bill to extend by seven years the time for the completion of the Winnipeg & Northwestern Railway Company. On the motion of Mr. Glen Campbell of Dauphin it was provided that the charter should lapse unless the company actually constructed 25 miles of the road within a year from the passage of the bill. The committee divided on the question of applying so drastic a condition by way of preventing further delay in going ahead with construction. Mr. Campbell's motion was carried by a vote of 36 to 32, after a general discussion as to the need of adopting a stricter policy in dealing with railway companies which get charters, but do not prosecute active building operations.

SURRENDER OF SANTIAGO.

Toral Received His Instructions Direct From Madrid.

(Associated Press Despatch.)

Madrid, Feb. 18.—The bitter controversy aroused last week by the publication here of some cablegrams exchanged between General Blanco at Havana and the Government at Madrid regarding the surrender of the city of Santiago, Cuba, to General Shafter on July 17, 1898, has been further envenomed by the appearance of a fresh batch of messages, which demonstrate that the Government, when it found that Blanco was unalterably opposed to surrender, communicated directly with General Toral, the Commander at Santiago, giving him a free hand to make terms.

HURT WHILE TOBOGGANING.

Cadet H. P. Crerar of Hamilton Has Jaw Broken at Kingston.

(Special Despatch to The Globe.)

Kingston, Feb. 18.—H. P. Crerar of Hamilton, a cadet at the Royal Military College, had his lower jaw broken this morning while tobogganing on the Fort Henry Hill. He was followed in another toboggan by Cadet R. C. Morgan, Osnabruck Centre, who escaped with a severe cut in the face. Several other cadets escaped injury. Cadet Crerar is in the hospital and will be laid up for several months. The cadets attempted a risky jump, and were pitched down the slide.

DIED IN ELECTRIC CHAIR.

Negro Electrocuted for Attacking Young Woman.

(Associated Press Despatch.)

Richmond, Va., Feb. 18.—Charles Gillespie, a negro, who a month ago attempted an attack upon a young woman of this city while she was on her way to church, was put to death in the electric chair in the penitentiary here to-day.

The Time to Change

is when you feel interested enough in your health to leave off tea and coffee for a few days and learn just how much better, sturdier and clearer one feels by drinking

POSTUM

"There's a Reason."

FROZEN IN THE ICE.

WHALING SCHOONER FAST NEAR POINT BARROW, ALASKA.

A Letter From V. Stefansson, Who With Dr. R. M. Anderson Left Edmonton in May Last to Explore Islands East of Mackenzie Delta.

(Associated Press Despatch.)

New York, Feb. 18. — Herman C. Bumpus, Director of the American Museum of Natural History, received a letter yesterday from V. Stefansson, who, with Dr. R. M. Anderson, left Edmonton, Alberta, May 2, 1908, on a trip up the Mackenzie River to the Arctic Ocean, to explore the eastern islands for ethnological and zoological data. Mr. Stefansson wrote from the whaling schooner Olga, in command of Captain William Mogg, who left Port Townsend, Washington, in June, 1907, on a whaling trip through unexplored regions of the Arctic. Mr. Stefansson writes, under date of September 25, 1908, that Captain Mogg and his crew are safe, but that he will have to abandon his ship, which is frozen in the ice three miles off Halkett, near Point Barrow, Alaska.

Mr. Stefansson and Dr. R. M. Anderson left New York in April last to spend a year and a half or two years among the Esquimaux living along the northern coast of the North American continent, particularly east of the delta of the Mackenzie River. Some of these tribes had never seen a white man before Mr. Stefansson and Dr. Anderson appeared among them.

MR. DONALD MACKAY DEAD

MERCHANT CHIEF WAS OVER NINETY YEARS OLD.

Sketch of an Interesting Career—A Native of Scotland and a Man of Great Activities—Served in the '37 Troubles.

Mr. Donald Mackay, one of Toronto's chiefs of commerce, and senior partner of the well-known dry goods firm of Gordon, Mackay & Company, Limited, died at 7 o'clock yesterday at his residence, 5 Queen's Park. Mr. Mackay, who was in his ninety-fourth year, died from old age. It was only during the past couple of days that Mr. Mackay showed signs of weakening, and Doctors Bingham and Caven were in constant attendance. The family were at the bedside when the end, which was peaceful, came.

Mr. Mackay up till recently was able to conduct his own business affairs and be at the office daily. During the past two months he had been confined to his mome.

He is survived by a widow, three sons and one daughter. They are: Messrs. William, J. Drummond and J. Gordon Mackay of Toronto, and Mrs. Dr. Senkler of Vancouver.

The late Donald Mackay was born in Lybster, Scotland, in the year 1815, and emigrated to this country in the early thirties. Not long after his arrival the troubles of the period drew to a head in the rebellion of 1837, and he, like many other young men, enrolled himself beneath the banner of constitutional liberty, and bore arms during the trouble. The first scene of his mercantile career was Montreal, where he, with his two elder brothers, instituted a business which, under their management, soon

MR. DONALD MACKAY.

assumed large proportions. After spending fifteen years in Montreal in business with his brother, Mr. Donald Mackay moved to Hamilton, where he established himself as a wholesale dry goods merchant. In 1859 Mr. Mackay transferred the business premises to Toronto. In 1861 the firm launched into the manufacturing business, and for that purpose established the Lybster cotton mills at Merritton. In 1871 the business had grown to such proportions that larger premises became necessary, and an extensive warehouse was erected at Bay and Front streets, which was reduced to ashes in the big conflagration in the business centre a few years ago. The company rebuilt on the old site. On the death in 1882 of Mr. Gorden the business was formed into a limited liability company, with Mr. Donald Mackay as President. Apart from his own business Mr. Mackay had been instrumental in promoting several other important enterprises. For some years he held the office of Vice-President of the Ontario Bank, and was a director of the institution when it became defunct. He was also a director of the London & Canadian Loan & Agency Company.

In religion Mr. Mackay was a Presbyterian, and had been for many years a member of Knox Church.

Mr. Mackay was an eye-witness of the riots following the passing of the rebellion losses bill. He saw the rush of the mob into the Parliament buildings and saw the flames shoot up from the walls as they destroyed old Canada's most valued archives.

But there were religious as well as civic disturbances in Canada in those days, and it was with the keenest interest that Mr. Mackay often recalled the sensation caused throughout the Presbyterian Church in Canada by the echo of the great disruption of 1843. Mr. Mackay was the first to leave the church to which he then belonged, to join the "Free Church."

Up till a few years ago Mr. Mackay and his family resided in the old homestead, "Dundonald." Four years ago Mr. Mackay disposed of the property, which has since been converted into a public thoroughfare, under the name of Dundonald street.

Gardens for Poor Children.

Yonkers, N.Y., Feb. 18. Mrs. Russell Sage has purchased a tract of land, 445 by 500 feet, on the outskirts of this city, to be used as a garden school, where the children of the poor can cultivate vegetables and flowers and either sell them or take them to their homes. The price paid by Mrs. Sage for the plot is said to have been $20,000.

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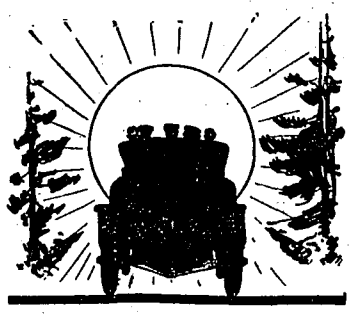

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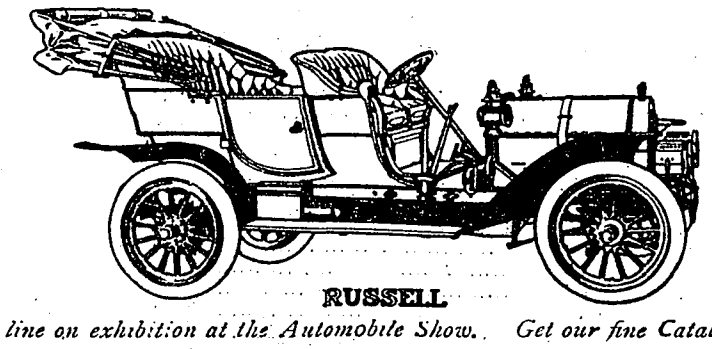

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AT OSGOODE HALL.

ST. CATHARINES COUNCIL UNSEATED BY JUDGE ANGLIN.

He Holds That Failure to Deliver Certified Voters' List to Clerk of the Peace Before Opening of Poll Was Fatal Error—New Election Ordered, but Reduction By-law is Shelved for This Year.

Divisional Court peremptory list for to-day at 11 a.m.:—Clemens v. Allen, re Carmichael estate, Lehman v. Kester, Dominion Express v. Krigbaum.

Non-jury Court, 9.30—Hognerud v. Monteith.

St. Catharines Council Unseated.

Mr. Justice Anglin has given judgment that the election of the municipal Councillors of St. Catharines cannot be upheld. He finds that the lists used were not proper voters' lists, as the lists, though certified by Judge Carman, were not also delivered to the Clerk of the Peace before the opening of the poll, as they should have been. He orders a new election, and respondents are to pay costs of the relator, N. M. Black.

His Lordship remarks upon the act of the Magistrate in striking off certain names from the list on Sunday, January 3, that if this was done in a judicial capacity, and not as a merely clerical act, it is open to question whether St. Catharines has since had or now has a legally certified voters' list.

The burden of proving non-compliance, mistake or irregularity in the election rests, says the Judge, upon the applicant for upsetting the election, but when that is done the burden rests upon those upholding the election to show that such non-compliance, mistake or irregularity did not affect the result of the election, and he cannot say that it appears to the court that such non-compliance did not affect the result.

In view of this disposition of the case, the other motion, brought to continue the injunction granted by the local Judge to restrain the Council from proceeding with the third reading of the by-law to reduce the number of licenses, is dismissed, but without costs. If either party refuses to consent to this disposition, and wants to go down to trial on question of costs, it will be at the risk of being mulcted for all the costs.

The effect of this issue of the case is to render it impossible for the new Council to pass the reduction by-law this year.

The Mayor having been elected by acclamation, the application as against him is dismissed with costs.

The order issues as a chamber order, and there is no appeal from this judgment.

Compensated For His Cows.

Mr. Justice Riddell has given judgment for $250 and costs in favor of Robert Sexton, a Scarboro' township farmer, as damages for the loss of four cows killed by a train on the Grand Trunk Railway on July 25 last. They were part of a herd of fourteen being driven along a public highway across the track to a field south of the track by his son, a boy of fourteen. The case was tried at the Toronto Jury Assizes.

Estate Distributed.

Mr. Justice Anglin has granted an order for the distribution of $1,077.50, now in the hands of the Toronto General Trusts as administrator of the estate of Joseph Laprise. Three creditors get $145, the administrator and lawyers $116.80, and the balance, $815.70, is divided among the next of kin, the father and six brothers and sisters, share and share alike.

Master's Reports Confirmed.

Mr. Justice Latchford has dismissed with costs the appeals of plaintiff in each of two actions styled McCarthy v. McCarthy. The plaintiff, Wm. McCarthy, is a barrister of Ottawa, and the defendant, David J. McCarthy, was a brewer of Prescott. The claims arose over the will of John Joseph McCarthy of Prescott, who died in 1899, and were for $1,000 and the administration of the estate, and for $6,300 for shares of stock. The appeals were from the reports of the Master at Ottawa. The cases were brought up by revivor against the widow of defendant, Theresa C. McCarthy.

Suit Over a Launch.

The Canadian Gas, Power & Launches, Limited, has brought action against the Schofield-Holden Machine Company, Limited, claiming an injunction restraining them from selling or offering for sale or otherwise disposing of the gasoline launch Defiance, alleged to be the property of plaintiffs. The launch, it is claimed, had been the property of the Defiance Iron Works Company, Limited, and J. H. W. Mackie obtained possession of it from that company, which retained the title and right of ownership, and later the company sold the launch to plaintiffs.

University President Resigns.

Ann Arbor, Mich., Feb. 18.—James Burrill Angell, LL.D., submitted his resignation of the Presidency of the University of Michigan yesterday, to take effect June 1, and the Board of Regents recreated the office of Chancellor and offered it to Dr. Angell at a salary of $4,000 a year, together with the continued use of the President's mansion on the university campus. Dr. Angell, who is 80 years of age, has directed the university since 1871. Among those mentioned as possible successors are Professor Jeremiah W. Henks of Cornell University; United States Senator Beveridge of Indiana, and President Benjamin Ide Wheeler of the University of California.

Free Books on Western Canada.

If you think of going to the west you will need the free booklets published by the Canadian Pacific Railway, "Settlers' Guide" and "Western Canada." They give a wealth of information regarding the western Provinces, crop statistics, land regulations, climatic conditions, good maps, freight and passenger rates by the C. P. R. direct line, and particulars of special train service for settlers during March and April. Now on the press ready for distribution next week. Send in your name to-day for free copies to R. L. Thompson, District Passenger Agent, C. P. R., Toronto.

Fined for Supplying Liquor.

Chatham, Feb. 18.—(Special.) — J. Early, charged with supplying liquor to O'Rourke, on the "Indian list," was this morning fined $43.

Impossible to be Well

It is impossible to be well, simply impossible, if the bowels are constipated. Waste products, poisonous substances, must be removed from the body at least once each day, or there will be trouble. Ask your doctor about Ayer's Pills, all vegetable. He knows why they act directly on the liver.

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The Kind You Have Always Bought

Bears the Signature of Chas. H. Fletcher

To Prohibit Use of Opium.

Shanghai, Feb. 18.—The International Opium Conference, which opened in this city February 1 at the instance of the United States, is making satisfactory progress in the discussion of the limitation and control of the opium traffic. Reports from various countries have been received and debated, and the conference will now take up the matter of resolutions. The prospects to-day point to a successful outcome of the labors of the conference.

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We suggest coming in now and allowing her to explain the **GOSSARD** to you.

JERRY JACKSON SENTENCED.

Colored Fighting Man Sent Down for Five Years—Would Sooner Hang.

(Special Despatch to The Globe.)

Windsor, Feb. 18.—Jerry Jackson, the noted colored desperado, who for several weeks kept the residents of the neighborhood of Puce River in a state of terror, was this morning sentenced by Magistrate Leggatt to five years in the Kingston Penitentiary. When he heard his sentence Jackson lost his nerve completely, and exclaimed: "I would rather be taken outside into the jail yard here and be hanged now than have to go to the penitentiary for five years." The charge upon which Jackson was convicted was arson. There were seven charges against him at the time of his arrest, but he was only prosecuted upon one.

AUCTION SALES.

AUCTION SALE

OF

WHOLESALE WAREHOUSE ON YORK ST.

The undersigned, Assignee for the benefit of creditors of Burton, Spence & Company, Limited, will offer for sale by public auction, on Wednesday the tenth day of March, 1909, at C. J. Townsend's auction rooms, 68 King street east, in the city of Toronto, at the hour of 12 o'clock noon, the following property:—All and singular that certain parcel or tract of land and premises situate, lying and being in the city of Toronto, in the county of York, and being composed of lot one, and the south twenty feet throughout of lot two, on the west side of York street, in the said city of Toronto, according to plan 775, said lands having a frontage on York street of forty-five feet by a depth of one hundred and ten feet to a lane, the north limit of the land hereby described being the centre line of the party wall between the building on the lands hereby described, and the building on the lands to the north thereof, and the south limit of the land hereby described, being the centre line of a party wall between the building on the land herein described and the building to the south thereof.

On said property is said to be erected a four-story brick warehouse known as street number 44 York street, being the premises formerly occupied by Burton, Spence & Company, Limited, and the Merchants Dyeing & Finishing Company, Limited.

The lands will be offered subject to a mortgage to the Credit Foncier Franco-Canadien, on which there is owing $32,500, and interest at five per cent. per annum, which mortgage the purchaser shall assume, and subject to the terms of two party wall agreements relating to the north and south walls of the said building, respectively, which will be produced at the time of sale.

TERMS OF SALE.

The property will be offered in one parcel subject to a reserve bid, which will be in the hands of the auctioneer at the time of sale.

For terms and conditions of sale and all other particulars, apply to Thomson, Tilley & Johnston, vendors' solicitors, 59 Yonge street, Toronto, or to the undersigned.

Dated at Toronto the 17th day of February, 1909.

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Assignee for the benefit of creditors of Burton, Spence & Company, Limited.
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†P. Friedrich W. Feb. 23 | Koelln ..... Feb. 27
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Sailing at 11 a.m.
K. Louise .....Feb. 27 | K. Albert.....March 13
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Furnessia ... ...Feb. 27, Mar. 27, Apr. 24
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California ... .Mar. 13, Apr. 10, May 8
Columbia ....Mar. 20, Apr. 17, May 15

For general information apply to R. M. Melville, G.P.A. for Ontario, 40 Toronto St.; Geo. McMurrich, 4 Leader Lane; A. F. Webster, King & Yonge Sts.

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St. Paul.....Feb. 20 | St. Louis.....March 6
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Twin screw steamers, 12,000 tons.

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Baltic.....Feb. 27 | Baltic.....Mar. 27
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Plymouth—Cherbourg—Southampton.

Teutonic.....Feb. 24 | Majestic .....Mar. 10
Adriatic.....Mar. 3 | Oceanic .....Mar. 17

Boston—Queenstown—Liverpool

Cymric.....March 21, 12.30 pm, May 1

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Lusitania, Mar. 10, 10am

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Tunisian sails .....Fri. May 21, 3 a.m.
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