JURISDICTION ON INCOME TAX CASES

County Judge Holds that Local Magistrate Has No Power to Fine for False Returns—Act Specifies Exchequer Court

IN the Carleton County Court at Ottawa on November 14, Judge Gunn decided that no justice of the peace or magistrate has jurisdiction to try cases where false Dominion income tax returns are alleged. The case was an appeal brought by Dr. Gordon Booth against a conviction registered against him last October in the police court, whereby he was found guilty of having made false income tax returns to the Dominion Income Tax Department for the years 1917, 1918 and 1919, and was condemned to pay $3,000.

Penalties are Heavy

The judgment concludes as follows: "I am opposed to the conviction made in support of this conviction that the War Income Tax Act imposing, as it does, the making of returns extending in number to hundreds of thousands, makes it lawful for the minister of finance of any authorized official of that department to lay a complaint against any or all of those returns containing a false statement of the income of any taxpayer and subjects him to the judgment of any magistrate or justice of the peace to determine his liability for $10,000 or six months' imprisonment, or both, in such a decision, until I hear it clearly stated so in that act, and as it stands, parliament having given expressly all jurisdiction to the Exchequer Court, I do not appreciate the attempt here made to institute proceedings before a provincial authority of inferior jurisdiction, as it means and leads to far-reaching convictions not reasonably within the consideration.

"There have been so many annual amendments to the income act that any returns made in 1917 and 1918, no matter how correct then, could be false now as 'income' was by these amendments given an extended meaning, and the defendant might well say truthfully that the returns of 1917 and 1918 are not correct—but false—and still be guiltless of the penalty. In any case I am clearly of the opinion that the injection of the words 'on summary conviction' in subsection 2 of section 9 does not clearly and expressly confer jurisdiction on any magistrate or justice of the peace to convict any person of any penalty laid by the Income War Tax Act.

"In any event, if I am in error in holding that the deputy police magistrate had no jurisdiction to hear and determine the information and complaint, I am, as judge of the fact and law, of opinion that the information and conviction contains no ground for complaint against the Income War Tax Act."

WRIT AGAINST OTTAWA SEPARATE SCHOOLS

Acting on behalf of the Bank of Nova Scotia, Chas. S. Smith, manager of the Wellington Street branch in Ottawa, has made an application to the courts for leave to issue a writ of execution of a judgment obtained in the Supreme Court of Ontario on October 24th, 1918, by the Bank of Ottawa, whereby it was entitled to recover from the board of trustees of the Separate School of Ottawa the sum of $77,800. The Bank of Nova Scotia seeks to recover the amount of the judgment, together with costs, and the interest which has accrued since the date of its promulgation, pointing out that its right to do so is vested in the agreement reached on April 30th, 1919, whereby the Bank of Ottawa sold and transferred all its assets to the Bank of Nova Scotia.

The judgment obtained by the Bank of Ottawa in 1918 followed the dismissal of the appeal taken to the Privy Council by the Separate School Board against an adverse judgment rendered by the school, whereby the School Board was debarred from recovering from the Quebec Bank, Bank of Ottawa and the ex-members of the Government School Commission a sum aggregating $170,000, consisting of the sinking fund of the schools, amounting to $42,000, seized by the Bank of Ottawa; $80,000 held by the Quebec Bank, and moneys spent by the School Commission.

SUIT FOR $400,000 AGAINST BANKS

George A. Carpenter, of Wolfeboro, N.H., in a bill filed in a Boston court against the Merchants National Bank and the Beacon Trust Company, seeks to have the banks restrained from demanding payment on two notes for $200,000 each, or from disposing of the mortgage given to secure them or the mortgage notes. An order of notice, returnable November 11th, was issued. Carpenter's contentions follow:—

On April 7th, 1914, he borrowed $400,000 of the banks on their own order, giving a note payable in seven years, with interest at 4½ per cent. Each bank loaned half the amount. He gave a note, secured by a mortgage on real estate at Washington and Winter Streets. Both note and mortgage were given to Arthur B. Nash, of Weymouth, an employee of the Beacon Trust Company, as nominee of both banks. When the loan was made he also made out two notes for $200,000 each, he alleges, one to each bank, but without consideration, and merely as accommodation and for the convenience of the banks to enable the latter to participate equally in the security.

It was agreed, he alleges, that the notes were not to be regarded as independent obligations, but merely as evidence of the share of each bank in the loan. The notes to the banks were made payable October 7th, 1914, and were renewed from time to time, and since 1916 have taken the form of demand notes. Plaintiff alleges he has paid $150,000 on the principal debt and interest, and is able to meet the balance. He says that because he refused to pay a higher rate of interest than that stipulated in the note for $400,000, the banks, acting in concert, have wrongfully demanded payment on each $200,000 note, and suit has been threatened.

SUPREME COURT NOW HEARING APPEALS

The Supreme Court of Canada is now sitting on several important cases on appeal from provincial courts. On October 14th judgment was reserved in the British Columbia appeal of the Corporation of the District of Surrey vs. Caine. The next case heard was the Standard Bank vs. McCrossan, another case from the Court of Appeal of British Columbia. The action was one brought by the bank upon a guarantee in the usual bank form agreed to by the defendant to an amount of $5,000. McCrossan stated that he signed the guarantee subject to the condition that it could not be used unless and until certain other notes had first been paid, which had not taken place. Judgment by the British Columbia Court of Appeal was in McCrossan's favor and the bank is now appealing.

BIG STEEL SUIT NOW BEFORE COURT

Three million dollars is at stake in a case just brought before the Exchequer Court in Ottawa. Because Hon. J. D. Reid, Minister of Railways, directed the Dominion Iron and Steel Co. to divert its organization from the making of shell steel to the manufacture of steel rails, the company demands that under the compensatory clause of the War Measure Act it shall have made good to it the additional profits it would have made on shell steel but for Dr. Reid's order. The order-in-council through which Dr. Reid made his order effective stated that the minister would himself set the price later after finding out the cost of production. The price set later was $65 a ton, and the dispute is whether the order-in-council or the compensatory clause of the War Measure Act governs.

COBALT ORE SHIPMENTS

The following are the shipments of ore, in pounds, from Cobalt Station for the week ended November 12th:—

Nipissing Mine, 67,238; Beaver Mine, 60,000; McKinley-Darragh, 85,696; Coniagas, 168,977. Total, 382,011. The total since January 1st is 24,252,706 pounds, or 12,126.3 tons.