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**Province of British Columbia.**

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**SUPREME COURT.**

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Full Court.]

**BESSETTE v. BUTTERS.**

[July 31.

*B. C. Land Act, ss. 7, 8, 13, 95—Powers of commissioner under s. 13—Right to appeal—"Person affected"—"Unoccupied lands."*

Butters was the holder of a record and certificate of improvements in respect of certain Crown lands. Bessette made application to the commissioner to purchase the same lands and asked that Butters' record be cancelled on the grounds that he had obtained it by fraud, and, further, that he had ceased to occupy the land within the meaning of the Act. The commissioner refused the application and his decision was confirmed by Morrison, J. Bessette appealed.

*Held*, 1. The commissioner has no power under section 13 to cancel a record because of false statements made in applying for record under sections 7 or 8. *Hereron v. Christian*, 4 B.C.R. 246, overruled in this respect.

2. Lands which are the subject of an ex facie valid record, especially where the preceptor has obtained a certificate of improvements, are not "unoccupied" lands within the meaning of the Act, and are therefore not open to pre-emption or purchase.

3. The lands in question not being open to pre-emption, Bessette was not a "person affected" by the commissioner's decision, and, therefore, had no status to appeal under section 95.

*Davis*, K.C., for appellant. *Creagh*, for respondent.

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**Bench and Bar.**

Death has been busy with the profession in the Province of Ontario during the past year, commencing with the loss of Christopher Robinson, K.C., on Oct. 31st. 1905. Without pre-tending that the following list is complete, we record the passing also of R. T. Walkem, K.C., of Kingston; J. A. Robinson, Barrister of St. Thomas; N. Simpson, County Attorney at Sault Ste. Marie; Walter Barwick, K.C., of Toronto, whose tragic death in England will not soon be forgotten; T. G. Blackstock, of Toronto; Henry Carscallen, K.C., of Hamilton. Nor has the