

**SALE ANNULLED.**

An interesting decision was given by Justice Guerin in the case of the Diamond Metal Company, Ltd., in their claim against the Standard Paint Company of Canada to recover \$1,275. His Lordship gave judgment awarding them \$751.40 and the costs of an action for that amount.

Plaintiffs on May 31, 1916, purchased from the defendants a car load of compressed gunny bagging, and paid \$751.40 cash for the same. Afterwards it was discovered that the material was not of the quality plaintiffs said they paid for. Therefore they tendered it back to defendants from whom they sought to recover \$1,275, made up as follows: \$751.40 paid for the bagging; \$159 loss of profits; \$188.60, representing the extra amount plaintiffs had to pay in the open market for material to take the place of that purchased from defendants; \$116 freight charges, and \$60 demurrage.

Defendants denied liability, pointing out that plaintiffs accepted and paid for the bagging, and did not make any complaint of its quality until several weeks afterwards.

Justice Guerin said the plaintiffs paid for the compressed gunny bagging without any examination as to its kind, quality or condition. They sold it immediately at a quick profit of \$159 to the Toronto Stock and Metal Company, shipping it as purchased and in the same car to the new purchaser, and as directed, to Chatham, Ont.

"When the car reached its destination," His Lordship said, "the Toronto firm, on examination, refused to accept the goods, giving for reason that the material sold was not fit to be used as gunny bagging. Plaintiffs acquiesced in this decision of their customer; the goods were returned to Montreal, and are now in possession of plaintiffs."

"This material was originally purchased by the defendants as 'damaged gunny bagging,' a fact, however, which was not disclosed to the plaintiffs when the latter purchased the material. When sold by defendants to plaintiffs the material was wet in part and it had lost its fibre. It was in part material which never had been gunny bagging at all, and which in either case had no commercial value."

"Plaintiffs are justified in asking for the rescission of the sale on account of defendants' failure to fulfil the most important condition which the sale implied, namely, the delivery of a merchantable article which could be used as gunny bagging."

"Defendants are under the circumstances, in possession of \$751.40 which they obtained from plaintiffs without consideration and of which the plaintiffs have a right to be reimbursed."

"Plaintiffs were imprudent in taking delivery of this material and reselling and shipping it a great distance without making an examination of the goods sold by defendants, particularly as the latter had refused to accept a cheque implying a conditional payment only, viz., 'subject to mill returns.'"

"Plaintiffs have not justified their claim for freight demurrage and loss of profits, but have proved the essential allegations of their demand sufficiently to justify the Court in rescinding the sale and in condemning defendants to return the purchase price—\$751.40."

Judgment was accordingly rendered ordering defendants to return to plaintiffs the purchase price of the material in question, which material plaintiffs were ready to return to defendants. As to costs, the Judge granted these against defendants on a basis of an action for \$751.40, deducting two-thirds of the costs of stenography incurred at plaintiffs' enquete, and the cost of one or two trips made by one of the witnesses from Toronto.

Winefield and Spurber for plaintiffs.

**NOVEMBER'S CATCH OF SEA FISH.**

Ottawa, December 20.

The total catch of sea fish in the whole of Canada during the month of November realized a value of \$2,145,240 at the points of landing, according to a statement issued by the Department of the Naval Service to-day. In November last year the total catch was valued at \$1,074,238. The great increase in value of the catch is largely accounted for by the fact that prices paid to fishermen this year are much higher than they were last year. A comparison of the price paid for two staple fishes, cod and haddock, now and in November of the pre-war year 1913 shows an increase of 85 per cent for cod and 114 per cent for haddock.

On the Atlantic coast fishing was carried on during November under rather unfavorable weather conditions and as a consequence the quantity landed was barely equal to that of a year ago. The total catch of cod, haddock, hake and pollock in eastern Canada during November amounted to 100,564 cwts., which is 5,400 cwts. less than for November, 1916, but almost 18,000 cwts. greater than for November, 1915. The total value of all fish at the point of landing in Nova Scotia during November this year amounted to \$415,107, as compared with \$295,072 in November last year. Prices paid to fishermen were 30 per cent higher for cod and 36 per cent higher for haddock this year than last.

**SMALLER CATCH OF SMELT.**

The sardine fishery in the Bay of Fundy resulted in a catch of 23,965 barrels against 22,685 barrels for November last year. The lobster catch in Charlotte and St. John counties, New Brunswick, amounted to 1,080 cwts., as compared with 1,726 cwts. in last year. The smelt fisheries in the Gulf of St. Lawrence produced 2,598 cwts. in November of this year while last year in the same month 3,510 cwts. were taken.

On the Pacific coast weather conditions generally were not very favorable. Fall salmon fishing during November resulted in a catch of 168,404 cwts., against 96,079 cwts. for the same period last year, while the herring catches for the month amounted to 89,247 cwts. as compared with 71,374 cwts. The quantity of halibut landed was 13,030 cwts. over 2,000 cwts. less than a year ago.

The total value of fish landed in British Columbia during November was \$1,599,031 against \$586,50 during the same month last year.

**SHORTAGE OF FUEL CUTS STEEL CO.'S OUTPUT.**

(The Iron Age.)

"The handicaps on pig iron and steel production have been increased in the past week by heavy snows in the east and central west, causing fresh shortages in coal and coke. The week's steel output in the Youngstown district has been only about half of the capacity. At Cleveland, the American Steel and Wire Company's plants were closed down for nine days. In Eastern Pennsylvania, five furnaces were banked; twenty were banked early this week at Pittsburgh, and in the two valleys, and throughout the country the coal situation of iron and steel works has been either worse or unimproved."

"Following the Federal Trade Commission's cost conference with iron and steel companies at Washington on Friday, at which the October increases in production cost were emphasized, the impression has gained strength that no important revision of existing price schedules will be made on January 1. The Steel Manufacturers' Committee met in New York last week, and a meeting with the War Industries Board at Washington is expected to be held this week."

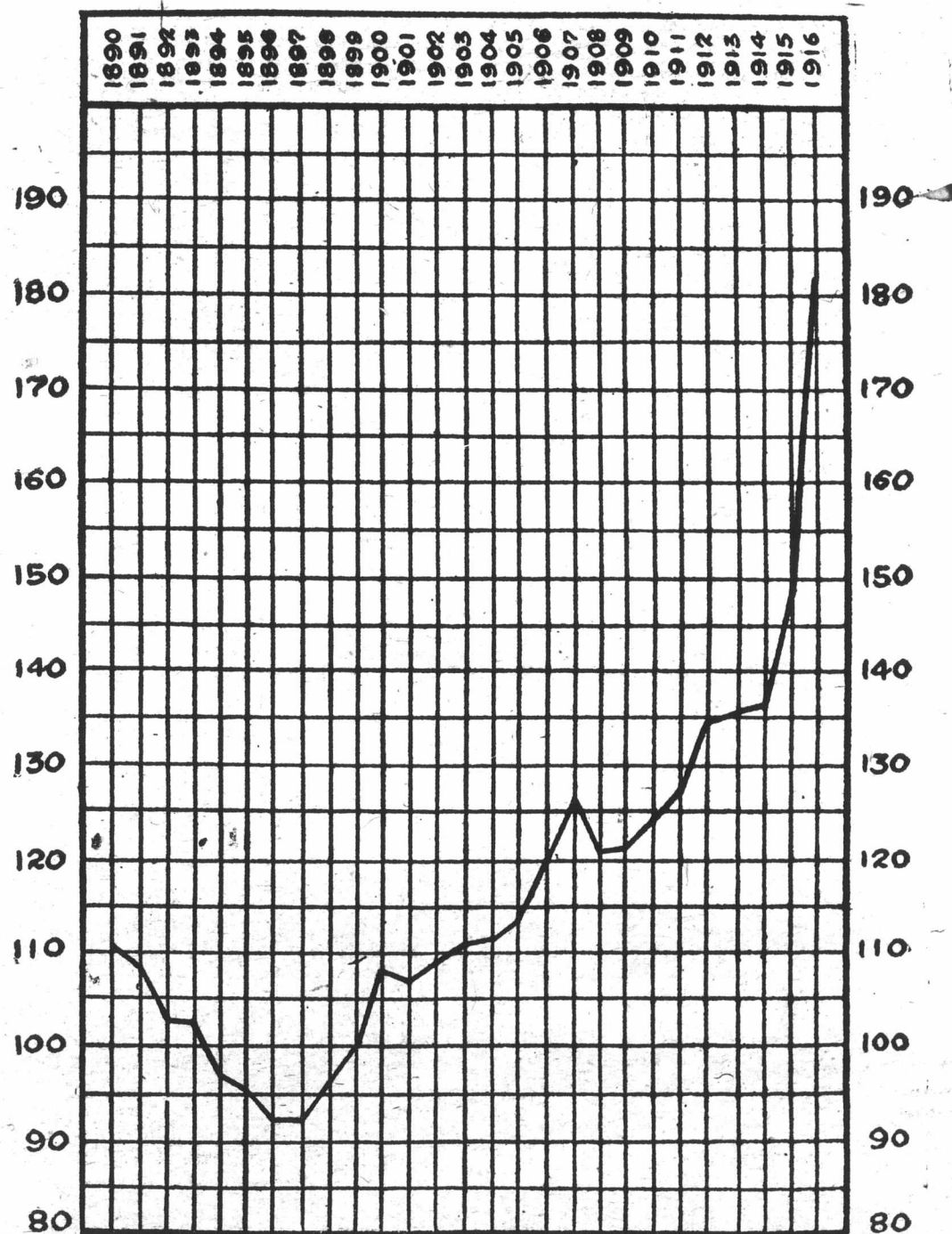
"Government requirements are growing. Large lots of plates are given out each week. In the west, an army inquiry for 40,000,000 bolts has come up, and in addition to 7,500 tons of rivets bought by the Emergency Fleet Corporation, 6,000 to 8,000 tons for eastern shipyards is about to be placed. Of the 1,500,000 tons of shell steel on which the Government wants delivery before June 15, about 1,200,000 has now been allotted by the mills."

"General export business is at a low ebb. One successful release of plates covers 1,500 tons for France, done at 4.75 cents. A French railroad is willing to pay 5 cents at mill for some 300 tons."

"The volume of structural steel business for shipbuilding and other Government needs is surprising in view of the almost total absence of private building work. The Bridge Builders' and Structural Society reports 138,500 tons of shop capacity put under contract in November, more than in any other month this year."

**THE COURSE OF WHOLESALE PRICES IN CANADA, 1890 TO 1916.\***

(Average Prices 1890-1899=100.)



\*Number of commodities: 1890 to 1909, 230; 1910 to 1914, 272; 1915 and 1916, 271.