

APPEAL WITHOUT COSTS SECURITY

Winnipeg Widow Succeeds in Application to Privy Council—Precedent Established.

A Winnipeg widow's petition to appeal to the Privy Council without furnishing the usual security for cost was presented to the judicial committee of the Privy Council last week by Geoffrey Lawrence for the petitioner, Mrs. Amelia McColl, whose husband, an employe of the Canadian Pacific Railway Company, was killed in a train wreck. Leave had been obtained from the Manitoba Court of Appeal to appeal to the Privy Council on the question of compensation, but the petitioner had failed to find security for the costs of the appeal, and now asked permission from the Privy Council to appeal without it.

Lord Haldane remarked that there might be important points of law involved, therefore there might be parties who quite legitimately supported this lady because they wished the matter to be tried out as much as she did. It would be a little hard on the railway company, His Lordship said, if the appeal should take place in London on the terms that the company would not get its costs even if it succeeded.

Mr. Lawrence said the petitioner had

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no means whatever to prosecute the appeal. Lord Phillimore asked how she had contrived to conduct the litigation thus far.

Mr. Lawrence pointed out that the costs of fighting the case in the Manitoba courts, naturally, were much less than those of fighting the case in London. The fact was, Mr. Lawrence continued, he had been approached as a personal matter by a well-known member of the Canadian Bar, who had sought his interest in promoting the petition.

Counsel for the Canadian Pacific Railway Company submitted that, if the case were of such importance as was suggested, there were bodies in the industrial world who might be expected to assist in promoting the appeal on the usual lines.

Lord Haldane, giving judgment, said the points of law upon which the opinion of the Privy Council was sought were in themselves important. Their Lordships of the Privy Council, he said,

thought the petitioner ought to be permitted to appeal under the circumstances although their Lordships were quite conscious of the hardship this might involve to the other side in having to pay the costs even if successful. However, he continued, this result of such procedure in certain instances entered into the very bones of the law.

This judgment is regarded as exceedingly important in that it establishes a precedent in the case of appeals from Canadian courts.

The judgment delivered in the Manitoba courts by Mr. Justice J. E. P. Frensdorff on the McColl vs. Canadian Pacific Railway case was of far-reaching importance inasmuch as it constituted a ruling on the effect of the Workmen's Compensation Act upon other compensating acts when dependents of the workman are plaintiffs. His Lordship found: No right at any time, in case of death of a workman, for his dependents to claim damages at common law. No right ever existed for dependents of a

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workman killed by accident to bring action for damages under the Dominion Railway Act, as the act is framed to provide compensation only to the person primarily injured, and the consequently bars action by the dependents.

It is from this judgment that Mrs. McColl, on behalf of herself and daughter, is appealing to the Privy Council. The above case was the first instance where a dependent of a workman brought action under the Dominion Railway Act.

RECENT DEATHS

Mrs. Mabel Dearn.
The death of Mrs. Mabel Dearn, wife of Unedy Dearn and eldest daughter of Joseph and the late Jennie Price, occurred yesterday at the General Public Hospital. Mrs. Dearn is survived by her husband, three children, her father, Joseph Price, seven sisters, Mrs. Chester Jones, of Washington (D. C.), and Misses Elizabeth, Jennie, Dorothy, Kathleen, Rose and Beatrice Price, all at home, and one brother, James Price, of Montreal. The funeral will take place from the home of her father, 182 Mecklenberg street, tomorrow afternoon at 2.30 o'clock.

Mrs. Sarah Hatfield.
After a lengthy illness, borne with fortitude and Christian patience, Mrs. Sarah Hatfield passed peacefully into rest yesterday. Mrs. Hatfield was stricken with illness immediately after the death of her husband in January, 1922, from which she did not recover and gradually sank until the end came. She is survived by two sons, Rev. William U., of McAdam (N. B.), and George, of St. John; also two brothers, John Edgett, of St. John, and James B. Edgett, of Edmonton (Alta.), and one sister, Mrs. Thomas Evans, of St. John. The funeral service will be held at the home tomorrow afternoon at 2.30 o'clock.

Robert Barr.
Fredericton, N. B., March 19—(Special)—The death occurred at his home, 214 Queen street, on Saturday afternoon, of Robert Barr, a well known and highly respected resident of this city, aged fifty-nine years. He had been ill for about two years and is survived by his wife, two brothers, William Barr, of Tobique, and Fred Barr, of Macquaque; one half brother, Charles Cliff; three sisters, Mrs. S. Patterson, of York Mills; Mrs. C. Tupper, of this city and Mrs. A. McConaghey, of Aberdeen, (Wash.).

Ernest A. Harvey.
Fredericton, N. B., March 19—(Special)—Ernest A. Harvey, son of Mr. and Mrs. David L. Harvey, died today in Devon after a lingering illness. He was aged seventeen years. His parents, one brother and one sister survive.

FUNERALS

The funeral of Captain Edward C. Elkin on Sunday afternoon was attended by a great many who wished to pay a last tribute to his memory. After a short service at his late residence, 285 Princess street, at 2 o'clock, a solemn service was held in Centenary church, where the full choir of the church was present. Rev. R. G. Fulton, the pastor of the church, was assisted by Rev. H. A. Goodwin in conducting the services. The pall-bearers were J. C. Chesley, Dr. G. O. Hannah, A. C. Jardine, J. L. Thorne, A. G. Edgcombe and D. J. Purdy. Interment was made in Fernhill cemetery and in the funeral procession the office staff of the Maritime Mail Works marched in a body followed by the trustees of Centenary church. The floral tributes were very numerous and of great beauty, and conspicuous among them was a large wreath from the Maritime Mail Works. Bayard Elkin, son of the late Captain Elkin, came from Montreal to attend his father's funeral.

The funeral of Mrs. Annie Ray was held on Sunday afternoon from her late residence, 144 1/2 Prince Edward street, at 2.30 o'clock to the Cathedral, where the burial service was conducted by Rev. H. A. Ramage. The funeral was largely attended. Six nephews were pall-bearers. Interment was made in the new Catholic cemetery.

BIBLE FOR BLIND.
New York, March 20.—The American Bible Society announced today it is bringing out a "small handy volume" of scripture selections for the blind. The pages are 7 by 18 inches and the volume will weigh about a pound. A complete bible prepared in the embossed system used for the blind, weighs about 150 pounds and comes in from 11 to 85 volumes.

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