

COAL-STEEL SUIT IN HIGHEST COURT

Argument in Famous Case Now
Being Heard Before the
Privy Council.

London, Dec. 1.—The consolidated appeal of the Dominion Coal Company vs. the Dominion Iron and Steel Company, was heard before the judicial committee of the Privy Council, comprising Lords Robertson, Atkinson, Collins and Sir A. Wilson, today.

For the coal company, Danckwerts, K. C., Laflair, K. C., Campbell, K. C., H. A. Lovett, K. C., and J. D. Crawford were counsel, instructed by Lawrence Jones & Co.

For the steel company, Sir Robert Finlay, K. C., Wallace Nesbitt, K. C., Hector McInnes, Lawrence and Stewart, instructed by Hills, Son & Richardson, appeared.

The steel company's case was that the coal company failed to supply them with coal suitable for steel-making purposes, in pursuance of the contract. Enormous damages are involved. Danckwerts, opening for the coal company, detailed the histories of the respective companies, and went minutely into the methods of coal mining and the manufacturing of steel. He said the process which a miner employed in removing impurities from his coal was but a subordinate one. The remainder of coal for steel-making purposes rested with the steel company. There were many reasons why a miner should not take upon himself the burden of seeing that the coal he supplied was suitable for the purposes of steel-making. If a steel-maker had the selection of the source whence his coal was to come, he had his fingers upon the pulse of the whole thing.

Analyzing the contract, Danckwerts said clause 1, which designated the various works for which coal was required, had for its object the limitations of the quality of it. Clause 3, which gave the steel company power to designate the seam, he declared, prescribed the quality of coal to be supplied. In pursuance of this power the steel company, which had a thorough knowledge of the coal company's property, designated the Phelan seam, which the coal company worked in several pits, including one called No. 6, in which the quality varied somewhat, as not infrequently occurred in all coal mines. It was difficult to imagine greater power given to a purchaser than that given.

The contract price of the coal to be supplied by the coal company, namely \$1.25, Danckwerts pointed out, was a low one, and the high-class quality coal could not be obtained at that price. He submitted the argument of the other side that clause 1, which was intended to define the quantity, really defined quality, and that that clause should be treated as a subsidiary thing was a very funny view to take of the contract, which should be taken as a whole.

The argument will be continued tomorrow. The suit of the steel company was brought to compel the coal company to carry out an agreement to supply serviceable coal at a certain price. This, it is claimed, the latter failed to do, much of the coal supplied being unsuitable, and the steel company had to pay higher prices elsewhere. The plaintiffs claim damages, the amount of the extra price it had to pay for good coal, and the fulfillment of the contract. Several million dollars are involved. The steel company won in the Canadian courts.

A MORPHINE VICTIM.

Toronto, Dec. 1.—Philipa Martinan, an 18-year-old boy, who is well connected in Toronto, appeared in the police court today, charged with vagrancy and was remanded for a week. According to the police the boy is a confirmed morphine victim, and having exhausted all ordinary methods of obtaining the drug, he has resorted to forging the names of doctors to procure prescriptions for what he wants. A peculiarity of the case is that the crown cannot prosecute him, as the forgeries have not been to the detriment of anybody. It is said the boy has been taking 12 or 13 grains a day. He formerly worked as bellboy in a big hotel and was afterwards in Buffalo.

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This is because Vinol is the best cod liver and iron tonic in the world. It creates a hearty appetite, strengthens the digestive organs, makes rich red blood and replaces weakness with strength. The beneficial effect of Vinol in cases of feeble old people is simply remarkable.

We invite all old people, delicate children, weak, run-down persons, convalescents, or those suffering from chronic colds, coughs, or bronchitis in this vicinity to try Vinol on our offer to return their money if it does no good. We make this offer to show our faith in Vinol. Anderson & Nelles, druggists, London, 268 Dundas street, near Wellington. Sign of Red Cross.

FIAT ARGUMENT BEFORE WHITNEY

Hears Application To Make the
Commission De'endants and
Reserve Judgment.

Toronto, Dec. 1.—There was a distinguished legal gathering in the Ontario council chamber this morning, when the Premier, as acting attorney-general, heard the application of Walter D. Beardmore for a fiat, adding the hydro-electric commission as a party to the action brought by him against the city to cancel its agreement for Niagara power. Mr. E. F. B. Johnston, K. C., and Mr. E. O'Brien represented the applicant; Corporation counsel Fullerton, the city, Mr. A. F. Lobb, the commission counsel in Smith vs. London, which is a somewhat similar case, Messrs. Meredith, for London, and McEvoy and Rose, for Smith, were also present.

No Fiat, No Litigation.

Mr. Johnston, in making his application, briefly recited the claims of the applicant as to the illegality of the contract. "We ask your fiat," he said, "to permit us to proceed with our litigation."

"Our client," he admitted, "has no cause of action against the commission in this sense that he has no contract with them, and is only acting as a ratepayer." He pointed out, however, that the commission was necessary as a defendant in order that the differences between his client and the city should be settled. He briefly referred to the court's intimation that without such an addition it might be difficult to try the action.

Vote Not a Criterion.

Mr. Johnston added that the plaintiff alleges that the commission in certain misrepresentations. "Legal fraud is charged," he said, and gave it as his opinion that "if a by-law had been submitted with an unlimited cost of production, the result of the voting would have been entirely different. A large percentage of those who voted for the by-law would not have done so if the cost had not been secured by a cost limited by the law. He felt that in this sense his client was not an individual, but the representative of a large class of citizens. "We were practically sent here by the judge to apply for a fiat," he alleged. "The case is certainly one of a quasi-public nature."

He admitted that the commission must be considered "an emanation from the crown," but noted that the plaintiff was not attacking its patent or anything of that nature. The commission is part of the Government, and part of the Government's policy, and he felt that he was really applying to a party interested in this very issue. That might be all the more reason for giving the plaintiff every opportunity to have his rights tried.

Might Thwart Justice.

"The case at issue is this: Will the Government say that Mr. Beardmore is to be denied justice, if he is entitled to it, simply because he cannot make the commission a party to the trial?"

Mr. Johnston contended that a trial especially desirable, because the plaintiff makes the contention that the contract must be and is ultra vires of the corporation. It is too late to attack the by-law, which is law, and should be carried out. If a contract were made in accordance with that by-law, the plaintiff would have no cause of complaint.

"The city might just as well have made a contract without a by-law," was one of the comments made by the plaintiff.

"The whole element of contention where votes have been taken has been, 'What is it going to cost?'"

"An indefinite contract, which may run into double the money for all we know," was his description of the city's agreement.

The London Case.

Mr. J. M. McEvoy, K. C., who appeared for the plaintiff in Smith vs. London, a similar application for a fiat, dwelt upon the belief current among London citizens that the power would be delivered ready for distribution at \$2.50 per horsepower.

"That is the basis," he declared, "on which the electors of London voted. That being so, this contract is in excess of the power given. The representation as to the limited cost of the element which made the vote go as it did. The council should not be permitted to put on the ratepayers a liability greater than the people voted for."

City Objects to Fiat.

Corporation Counsel Fullerton, speaking next, declared that "what you are being asked to do is exactly what you intend not to do, to take back the contract you intended to validate." His reference was to the city's application to the Legislature to have its contract validated, which resulted in a statute declaring the contracts of nineteen cities sufficient in form and substance to comply with the bylaws.

"The one thing necessary to make a contract legal was to have it executed by the parties," he contended. "This action is brought to undo what the Legislature decided, at our request, to do. If the drafting of the legislation is wrong, is it not fair for us to ask you to carry out what we asked the Legislature to do, and what it thought it was doing? If you add the commission as a defendant, we will be in the position of coming to you again and asking a second time for validation."

Salutes Interrupted Him.

"Proceedings in the way of litigation should not interfere with the people getting what they have been trying to get for years—power at cost." This was the plea of Mr. T. G. Meredith, K. C., who appeared for the city of London.

Salutes outside the building in honor of the Queen's birthday interrupted his address. "Don't mind," counseled Sir James. "We have some big guns in here ourselves."

Mr. Meredith asked what earthly use

a fiat would be when the municipalities could come to the Legislature at its next session and have it express itself clearly as to what its legislation of 1908 meant. Everyone knew it would say that it meant to ratify the contracts. "Just imagine the glee of those opposed to this legislation," he said. "If the fiat is issued and the usual course is taken to carry the case to the Privy Council; if the matter is hung up in the courts for a year, when the municipalities have agreed to take power from the commission in that time."

The Commission Counsel.

Mr. Lobb, on behalf of the commission, declared that the commission by its very creation had been empowered only to give estimates, and nobody thought it could give anything else. "No one who chose to know the truth could miss it," he declared. "Somewhat of a distinction was made by Mr. Lobb between the Toronto and London cases. Toronto used the commission's bylaw intact; London and other municipalities used the bylaw minus one paragraph of recital, removed by an official of the Power Union. There is, therefore, a difficulty in these cases which does not apply to Toronto."

"If the council is being fooled," said Mr. Lobb, "and are not complaining about it, what business is it? Not that of my learned friend's client, a minority voter."

Commission Concealed Nothing.

"There has never been for one single moment a desire on the part of the commission to conceal a single fact. The bulk of the whole scheme, so long as the municipalities stood together, has been to protect the commission from an attack on uncertain matters, such as estimates. We do not want to be ruled by injunction. We declared Mr. Lobb, 'we want to be ruled by you, and by the parties to the contracts.'"

He further declared that he understood his learned friend's client had spent thousands of dollars at the time of passing the bylaw to let it be known that the estimates would be exceeded. Why should he say now that no one knew of it? The parties directly interested and some others are now coming forward to block our progress," he said.

Mr. Johnston's Reply.

The counsel for the plaintiff said in reply that he had not attacked the estimates or policy of the commission and therefore felt Mr. Lobb's remarks unnecessary. The estimates might be all right or all wrong, but those in the bylaw were not in the contract.

"The maximum was fixed at \$18.10, if anything ever was fixed. The council then went on and made a totally different contract."

Mr. Johnston described as unfair the arguments of the city council, which he described as "in terrorism." "They come here and threaten," he complained, "and say they will get new legislation." He also objected to any attorney-general being asked to interpret the law according to what he might know to be the intention of the Legislature.

"He must take the law as he finds it," asserted the plaintiff's counsel. "I'll take up this as fast as I can," was the Premier's only comment.

UNCLE SAM'S PACT WITH JAPANESE

The Official Copy of Agreement
Concerning Status Quo in
the Pacific.

London, Dec. 1.—The Associated Press today secured a copy of the agreement between the United States and Japan concerning the maintenance of the status quo in the Pacific, and the observance of the integrity of the Chinese Empire. It consists of an exchange of notes between Secretary Root and Baron Takahira, the Japanese ambassador to the United States. The notes are nearly identical. That of Baron Takahira is dated Nov. 11, and says:

"The exchange of views between us which has taken place during the several interviews I have recently had the honor of holding with you, has shown that Japan and the United States are holding important outlying insular possessions in the region of the Pacific Ocean, and that the governments of the two countries are animated by a common aim, policy and intention, in that region."

Believing that a frank avowal of that aim, policy and intention would not only tend to strengthen the relations of friendship and neighborliness between Japan and the United States, but also materially contribute to the preservation of a general peace, the Imperial Government has authorized me to present you an outline of its understanding of that common aim, policy and intention."

Then follow the five articles of the covenant, as made public Nov. 17 from Washington.

The Japanese ambassador writes in conclusion:

"The foregoing outline accords with the view of the Government of the United States I shall be gratified to receive your confirmation. (Signed), Takahira."

Secretary Root in his note says:

"Your Excellency—I have the honor to acknowledge the receipt of your note of today setting forth the result of the exchanges of views between us in our recent interviews, defining the understanding of our two governments in regard to their policy in the region of the Pacific Ocean."

"It is a pleasure to inform you that this expression of mutual understanding is welcome to the Government of the United States as appropriate to the happy relations of the two countries, and as an occasion for a concise mutual affirmation of that accordant policy respecting the far east, which the two governments have so frequently declared in the past."

"I am happy to be able to confirm to your excellency on behalf of the United States the declaration of two govern-

125 MILES IN A ROWBOAT

REMARKABLE STORY
FROM MISSION CITY.

Mr. John R. Wren, late Reeve of Mission City, B.C., is now 66 years of age and tells the following remarkable story: "Some years ago I was given up by the Doctors. I was so weak I could not walk across the floor, and was patiently waiting for death. I had paid as much as \$25 a visit for a specialist who said I could not get relief. In this condition I sent for a sample of PSYCHINE. The first night PSYCHINE gave relief. The bleeding of the lungs ceased and in three weeks I was able to walk three miles before 7 o'clock a.m. and take the oversight of a score of men." This was 1894, just 14 years ago. Since that time Mr. J. Wren has been Reeve of Mission City, and on August 17th, 1908, wrote: "I am now in my 66th year and weigh 296 pounds and do considerable business. Last week I travelled 125 miles in a row boat and slept out every night, and feel no bad effects from it. I owe this new lease of life to Dr. T. A. Slocum and his remedies."

No wonder Mr. Wren is grateful for PSYCHINE for it transformed him from a weakling into a sturdy, hardy man and this is a time of life when most people are expecting the reverse. PSYCHINE is a wonderful Tonic and Life Giver. Living witnesses prove this statement. PSYCHINE cures are permanent. THERE IS LIFE IN EVERY DOSE. We want you to test its power and send for a trial bottle at once. Write to Dr. T. A. Slocum, Limited, Spadina Avenue, Toronto. PSYCHINE is sold by all druggists and stores at 50c and \$1.00 a bottle.

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He was surprised at how the sores healed. I took your treatment for a serious blood disease with which I had been afflicted for twelve years. I had consulted a score of physicians, taken all kinds of blood medicine, visited Hot Springs and other mineral water resorts, but only got temporary relief. They would help me for a time, but after discontinuing the medicine the symptoms would break out again—burning sores, itching, skin eruptions, pains, looseness of the hair, swelling of the glands, palms of the hands, itching of the skin, dyspeptic stomach, etc. I had given up in despair when a friend advised me to consult you, as you had cured him of a similar disease 8 years ago. I had no hope, but took his advice. In three weeks the sores commenced to heal up and at the end of that time every symptom had disappeared. I was cured 7 years ago and no one recommends your treatment as highly as I can. I can refer any person to me who is afflicted with blood diseases, of Men and Women.

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ments, embodied in the following words:

Secretary Root then inserts in his letter the five articles of the covenant as set forth in the letter of the Japanese ambassador.

PETTY THIEF CAUGHT

Confesses to Taking Cash From the Bell Telephone Company.

Galt, Dec. 1.—For the past six months petty thieving of cash has been going on at the Bell Telephone Company's office here. Last night about midnight, Chief Gorman arrested Earl Licht, aged 18 years, and a former employee of the company, in the act of taking the cash box, containing about \$20, from the safe. Young Licht gained access to both office and safe by keys in his possession. On being searched, nineteen keys and several other articles were found on him. Licht appeared before Police Magistrate Black this morning and pleaded guilty. He was remanded till next Monday so as to allow an investigation to be made into other small burglaries.

TORONTO CUSTOMS RETURNS.

Toronto, Dec. 1.—The custom house receipts show a decrease in the returns for November, 1908, as compared with the corresponding month for 1907. The returns given out for the two months are, November, 1908, \$646,851 18; November, 1907, \$737,930 54. Decrease, \$111,079 36.

It is delightful to be able to help someone along, as all know who have ever tried it.

Near Death's Door

Mi-o-na cures dyspepsia. If any of the readers of The Advertiser are suffering from stomach trouble of any kind W. T. Strong will sell you a box of Mi-o-na for 50 cents with an absolute guarantee of relief or money back.

Neil Murray, of Huron road, Goderich, Ont., says: "I suffered with indigestion for over four years and had been given over as incurable by many doctors. I had become a nervous wreck through loss of sleep, and whatever I ate did not remain on my stomach for over two hours. I would suffer with vomiting spells that would almost kill me, perspiration as large as beads would break out all over my body and leave me in so weak a condition that I would be unable to stand, not a night's rest in over six months and was so weakened and rundown that my family thought I would die. My heart was greatly weakened and would flutter and a sharp pain would come from me and cut off my breath. I was reduced in weight from 150 to less than 110 pounds. Doctors would give different causes for my trouble, yet none of them gave me the slightest relief. I commenced treatment with Mi-o-na and when one-half of the first box was used I could eat my meals without suffering the dreadful vomiting spells. I used about ten boxes in all, and I am entirely cured. My stomach is as strong as ever and there is not the slightest trouble with digestion. I have gained about forty pounds in weight, am strong and healthy and like a new man. I will always speak highly of Mi-o-na, as it cured and I believe kept me from sure death when all else had failed."

STANDARD CHEMICALS

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Makes Public Statement

TELLS OF HER BELIEF IN THE UNDYING MERIT OF DR. HAMILTON'S PILLS.

Halifax, N. S., Oct. 13.—When interviewed at her home at 194 Argyle street, Mrs. Haverstock was quite willing to talk of her peculiarly unfortunate case. "I was always 'blue' and depressed, felt weak, languid and utterly unfit for any work. My stomach was so disordered that I had no appetite. What I did eat disagreed. I suffered greatly from dizziness and sick headache and feared a nervous breakdown. Upon my druggist's recommendation I used Dr. Hamilton's Pills."

"I felt better at once. Every day I improved. In six weeks I was a well woman, cured completely after different physicians had failed to help me. It is for this reason that I strongly urge sufferers with stomach or digestive troubles to use Dr. Hamilton's Pills."

"Dr. Hamilton's Pills strengthen the stomach, improve digestion, strengthen the nerves and restore debilitated systems to health. By cleansing the blood of long-standing impurities, by bringing the system to a high point of vigor, they effectually chase away weariness, depression and disease. Good for young or old, for men, for women, for children. All dealers sell Dr. Hamilton's Pills of Mandrake and Butternut."



MR. J. R. WREN

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TRAVELLERS' GUIDE

GRAND TRUNK RAILWAY.

SARNIA TUNNEL TO SUSPENSION BRIDGE AND TORONTO.

Arrive from the east—3:40 a.m.

10:55 a.m., 11:12 a.m., 11:23 a.m.

12:30 p.m., 12:50 p.m., 10:10 p.m.

12:30 p.m., 11:23 a.m., 1:10 p.m.

3:35 a.m., 11:23 a.m., 1:10 p.m.

4:10 p.m., 6:25 p.m.

Depart for the east—12:14 a.m.

3:40 a.m., 7:30 a.m., 9 a.m., 11:33 a.m., 2:05 p.m., 4:25 p.m., 6:53 p.m. (Eastern Flyer.)

The trains leaving at 7:30 a.m. and 2:05 p.m. stop at all stations.

Depart for the west—3:50 a.m.

7:40 a.m., 11:18 a.m., 11:35 a.m.

1:40 p.m., 5:18 p.m.

The 7:40 a.m. and the 1:40 p.m. trains stop at all stations.

LONDON AND WINDSOR.

Arrive—10:25 a.m., 4 p.m., 6:50 p.m. (Eastern Flyer), 11 p.m.

Depart—