

JUDGMENT RESERVED IN THE MESTON CASE

Two Appeals Dismissed—Full Court Happenings of Yesterday

(From Wednesday's Daily)

The full court disposed of four cases yesterday, though it reserved judgment in one of them, Mason vs. Weston. Two appeals, Rex vs. David and an appeal by the Hon. James Dunsmuir from a decision of the court of revision for the district of Esquimalt, were dismissed, and a third was reserved pending an application to the court for a new trial.

In the morning P. Higgins continued his argument in support of the decision rendered by Mr. Justice in the case of Mason vs. Weston, citing a number of decisions in support of his contention. The court reserved judgment on the appeal. The court then proceeded to the appeal by the Hon. James Dunsmuir from a decision of the court of revision for the district of Esquimalt, which was dismissed, and a third was reserved pending an application to the court for a new trial.

The next case was that of Duck vs. Johnston, in which J. W. Taylor, K.C., appeared for the appellant and R. T. Elliott, K.C., for the defendant respondent. This is a real estate case, in which appeal has been taken on a point of law, and a new trial was also asked for on the ground of discovery of new evidence since the trial of the action. The full court held that application should have been made to the county court judge for a new trial, and directed that this be done, the point of law being reserved for argument after the result of the second trial is known.

The case concluded at between 5 and 10 minutes to one, the latter hour being the usual one for the midday adjournment of the court. Mr. Justice, counsel for the appellant, in the next case was in the room ready to proceed, but Mr. Morphy, who was briefed for the crown, was not present, having left the room under the impression that in the few minutes that remained there was no chance of a fresh case being called. The absence of the counsel, however, was the cause of a delay, as the court had to wait for the appearance of counsel for the appellant, the delay caused by counsel in not being prepared to go on promptly with their cases.

Rex vs. David. David was called, an appeal brought by R. C. Lowe from a decision of Judge Lampman in a criminal case. David is a Mayne Island rancher who was charged with an aggravated assault on the crippled woman with whom he lived, and by whom he had several children. At the trial the woman was not present, as he had been found practically impossible to bring her to Victoria. Her lower limbs are crippled by a stroke at paralytic, and she was also in a delicate state of health. Evidence at the preliminary hearing had not been taken down by a stenographer and there was counsel present, with the result that Mr. Morphy, who appeared for the crown, made no attempt to introduce her. For the defence Mr. Lowe expressed a strong wish to have her there so that he could cross-examine her, but he did not push the request, and late in the course of the trial, when the crown was convinced to make an effort to rebuttal counsel for the defence offered, in delivering his judgment Judge Sampson refused to allow evidence to be introduced by the crown, claiming that the deposition had been improperly admitted. In refusing to make a case for the crown, Judge Sampson gave reasons for refusal that the depositions had not been admitted in evidence, but had been made by Mr. Lowe, claiming that the deposition had been improperly admitted. In refusing to make a case for the crown, Judge Sampson gave reasons for refusal that the depositions had not been admitted in evidence, but had been made by Mr. Lowe, claiming that the deposition had been improperly admitted.

Mr. Lowe made a long argument in support of his appeal, but the court held that he could not complain of the woman not having been called in evidence, as he had not only made a case for the crown, but had also made a demand for her presence but later on objected to her being called in later on. The court then proceeded to the appeal by the Hon. James Dunsmuir from a decision of the court of revision for the district of Esquimalt, which was dismissed, and a third was reserved pending an application to the court for a new trial.

The fact that counsel has done something which he should not have done cannot be ground for an appeal, such a course would put an end to all orderly prosecution. Mr. Justice, characterized the application as an idle appeal, the chief justice remarking that he thought the prisoner very lucky not to have received a heavier sentence. Mr. Justice Clement concurred in dismissing the appeal. Mr. Morphy, who appeared for the crown, was not called upon.

Against the Lieutenant-Governor. The next case was an appeal argued by H. Dallas Helmcken, K.C., on behalf of the Hon. James Dunsmuir. Mr. Helmcken, who explained that he had not been associated with the case in its earlier stages, stated that the appellant considered that his property in the Esquimalt district had been wrongfully assessed by the provincial assessor. The assessment had been jumped from \$11,000 to \$34,000, and the unavailing appeal had been taken to the court of revision, whose decision was again being appealed from.

Mr. Helmcken sought to attack the assessment upon technical grounds, including the one that the assessment notice was void, because it was addressed to Mr. Dunsmuir, who had not registered his title to the land, and so in law was not the owner. However, the court could not find its way back to Mr. Bogg's evidence and the appeal was dismissed. Deputy Attorney General MacLean appeared for the provincial assessor.

CLAYOQUET HOTEL BURNS
Serious Fire at Port on Northern Sound—Stores Were Saved

A despatch from Clayoquot to the Colonist states that the Clayoquot hotel, owned by Messrs. W. & C. Dawley, was completely destroyed by fire at 8 p. m. yesterday, and very little was saved. The store adjoining and the building containing the hotel, which was burning hotel, but there was little wind and settlers managed to save the hotel. There was no insurance on the hotel.

The Clayoquot hotel was on the head of the Clayoquot Pass, at the head of the long wharf at which the steamer lands. It was a two-story wooden building, recently owned by Stockham and Dawley some years ago before the partnership existing between the two was dissolved.

TRAIL NEEDED TO CAPTURE G.T.P. TRADE

Delegates From Revelstoke to Urge Its Construction Upon Government

(From Wednesday's Daily)

A joint deputation, which will consist of deputations from the boards of trade of Revelstoke, Vancouver and of this city, will wait upon the entire executive of the local government at the parliament buildings at 11:30 o'clock this morning.

In explanation of the object of their visit, Mr. McCarter said: "Contracts are about to be let for two considerable sections of the Grand Trunk Pacific railway extending westerly from Edmonton a distance of 260 miles, and ending at the head of the Pacific, a distance of 70 miles section extending from a point 25 miles east of Yellowhead Pass to a point three miles west of the same, and intending contractors have men now in the field looking over the ground with the view of determining which is the most feasible route by which men and supplies may be brought to the line. And the same route, wherever this may be, will be assuredly used for bringing in the men and supplies which will be employed in the construction of the railway. The route, which will extend westerly from Tete Jaune Cache. Their experienced counselors have now been asked to determine the route which exists by way of Revelstoke and the Columbia and the route which exists by way of the head of the long wharf at which the steamer lands. It was a two-story wooden building, recently owned by Stockham and Dawley some years ago before the partnership existing between the two was dissolved.

The Columbia river above Death Rapids to the mouth of Canoe river, a distance of 45 miles, and the Canoe river from its mouth to the mouth of the Columbia river for 6 or 7 months in the year. By this means supplies can be taken to a point on the river within 35 miles of Yellow Head Pass, but owing to the comparatively short season of navigation the route is not practicable. Supplies required will not be introduced in a single season and consequently it will be necessary to have a wagon road from the mouth of Canoe river to Tete Jaune Cache, in order that the balance of the supplies can be carried forward in winter by sleds or by pack animals. It will be constantly going and coming in connection with these important lines of communication. It will be constantly going and coming in connection with these important lines of communication. It will be constantly going and coming in connection with these important lines of communication.

Revelstoke Route. Intending contractors say that the Revelstoke route is by far the most desirable, providing a reliable road for transportation purposes. It is prepared for their convenience, and the route is by far the most desirable, providing a reliable road for transportation purposes. It is prepared for their convenience, and the route is by far the most desirable, providing a reliable road for transportation purposes.

Alternative Route. The only other possible route is to be had by way of Edmonton which, however, presents difficulties. It is the large rivers which must be crossed and the many miles of muskeg over which it will be necessary to pass. This is a matter which does not attract Revelstoke alone, for it really concerns the entire province, and it is the duty of the government to provide the required means for transportation, and to enable this very large amount of business to be transacted through the wholesale houses of Victoria and Vancouver, which in this eventuality will, beyond all doubt, be the trade incident to the building of the two roads, the cost of these two roads, the sleigh and the wagon road, is estimated at \$100,000.

A company has been incorporated to construct the three and one-half mile tramway above Death Rapids, and the Dominion government has been asked to grant a substantial subsidy with the active support of the local member and Hon. William Templeman, and with every prospect of early success, while the capital necessary to provide the tramway is being raised. The company is already available and if the assistance of the Dominion government is granted by the local government, the project of building the steamer and wagon road will be placed in hand immediately upon learning the decision of the successful tenderers to adopt this route.

The delegations desire that this government shall state definitely and without delay what assurances they will give in order that the project of building the steamer and wagon road will be placed in hand immediately upon learning the decision of the successful tenderers to adopt this route.

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CEPECES WEAR BEST

The High Wire Fence Company, Limited, Walkerville, Toronto, Montreal, St. John, Winnipeg

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