

Province of British Columbia.

SUPREME COURT.

Full Court.]

[June 29.

EAST KOOTENAY POWER AND LIGHT CO. v. CRANBROOK POWER AND LIGHT CO.

Water and water rights—Water Clauses Consolidation Act, 1897—Appeal—Hearing de novo—Scope of—Point of diversion of water—Effect of on other records.

The Water Clauses Consolidation Act, 1897, R.S. c. 190, s. 36 provides that any person affected by the decision of a Commissioner or Gold Commissioner under the Act may appeal therefrom to the Supreme Court or County Court in a summary manner by filing a petition pursuant to the procedure prescribed in the section.

Held, 1. A hearing so had is a trial de novo and the judge is bound to go into the merits of the application, as he must make such order in relation to the matters dealt with in the decision appealed from, and respecting the rights of all parties in interest and affected by the decision appealed from, whether named in the petition or not, as he deems just.

2. As the change in the point of diversion of the water sought here meant a serious interference with a prior record, the learned judge below rightly refused to allow such change.

Woodworth, for appellants. *S. S. Taylor*, K.C., for respondents.

Full Court.]

[June 29.

COUGHLAN v. NATIONAL CONSTRUCTION COMPANY.
MCLEAN v. LOO GEE WING.

Mechanics' liens—Filing of claim for lien—Time of completion of work—Notes discounted by bank—Notice to owner. Mechanics' Lien Act, Amendment Act, 1907, c. 7, s. 2.

By agreement dated the 23rd of December, 1907, the defendant, National Construction Company, Ltd., agreed with the defendant Jsong Mong Lin to construct a building upon the property of the last named defendant for the sum of \$80,000. The plaintiffs furnished material from time to time during the course