



The Journal of Commerce

VOL. XLVI. No. 4

MONTREAL, TUESDAY, JULY 23, 1918

Price, 10 CENTS

The Journal of Commerce

Devoted to
CANADIAN INDUSTRY, COMMERCE AND
FINANCE.

Published every Tuesday Morning by
The Journal of Commerce Publishing Company,
Limited.

Head Office: 35-45 St. Alexander Street, Montreal.
Telephone: Main 2662.

Toronto Office: 263 Adelaide St. West., Toronto.
Telephone: Adelaide 917.

HON. W. S. FIELDING,
President and Editor-in-Chief.

Subscription price, \$3.00 a year.
Advertising rates on application.

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Special Articles

Growth of the War Debt.
By H. M. P. ECKARDT.

Conditions in the West.
By E. CORA HIND.

Book Reviews.
By HOWARD S. ROSS.

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The Ottawa Judgment

THE judgment of the Supreme Court of Canada, in the Gray Habeas Corpus case, relieves to a very large extent the embarrassing situation created by the decision of the Alberta Supreme Court as to the validity of the Dominion Orders-in-Council cancelling certain exemptions that had been granted by the tribunals appointed under the Military Service Act. The judgment will not end the legal controversies on the subject, but it is effective for immediate purposes. Like the judgment of the Alberta court which it over-ruled, it was the opinion of a divided court. In Alberta one judge dissented from the opinion of his associates that the Orders-in-Council were not valid. In the higher court at Ottawa two judges dissented from the opinion of their associates that the Orders were good. It is worthy of note that of thirteen judges who have, in one form or another, passed on the question—six at Ottawa, six at Calgary, and one at Montreal—eight of the thirteen have held that the Orders are not valid. But, of course, the judgment of the Supreme Court at Ottawa, though it was not unanimous, over-ruled all others and establishes an interpretation of the law which must be accepted and acted on.

The Ottawa judgment dealt only with the particular matter before the court. That was not a case of appeal, but an original application to the court under the Habeas Corpus Act in the case of one Gray, of Nipissing, Ontario, who had been exempted by the tribunals and subsequently called to service. But though that particular case only was determined, the opinions expressed by the majority of the judges were broad enough to cover all the questions that have been raised as respects the validity of the Orders-in-Council, and the Orders are upheld on all points.

The substance of the decision of Chief Justice Fitzpatrick and Judges Davies, Duff and Anglin (Judges Idington and Brodeur dissenting) is that Parliament could delegate its authority to the Governor-in-Council; that it did so very broadly in the War Measures Act of 1914; that the Military Service Act passed subsequently did not in any respect cancel that delegation of authority, but on the contrary specifically reserved it; that while the approval of the Orders by resolution of the Senate and House of Commons had not the force of an Act, neither the resolution nor an Act was necessary, as the Governor-in-Council had, under the War Measures Act, the power to pass the Orders, whether Parliament was in session or not.

The reports from Ottawa, immediately after the Alberta decision, that the military authorities would ignore the opinions of the courts and enforce the Orders-in-Council were, it may be believed, if not unauthorized, the hasty ex-

pressions of men who would have been obliged to revise their conclusions. It seems fairly clear now that if the over-ruling of the Alberta decision by the Supreme Court of Canada had not been brought about, the only safe course of procedure would have been the immediate summoning of Parliament.

An enforcement of the Orders after their validity had been attacked by decisions of the courts would have been a perilous proceeding. With the sanction of Parliament and the judgment of the highest court as to the legality of their action, the Government can proceed with the carrying out of the measures which they felt were necessary for the reinforcement of our army on the battlefields of Europe.

Double Taxation

TAXATION is at all times a thing that is not loved. Of course, it is necessary, it is a part of the machinery of civilization. It is only through taxation that the community can receive the conveniences which make life endurable. Everybody knows this. Everybody accepts and enjoys the advantages which taxation brings. But not everybody is sufficiently steeped in philosophy to cultivate the joy of giving. One becomes critical, and sometimes censorious, when the tax bill arrives. It is direct taxation that challenges this spirit. Undoubtedly the best system from a severely economic viewpoint, direct taxation develops inquiry, criticism and—growing. The citizen will pay large sums indirectly through the ingenious machinery of the Customs tariff, and will rarely think of the burden. He is not so ignorant as to be totally unaware of such taxation. But the process is so quiet and gentle that he is not often called on to take notice of it. Not so in the case of the direct tax. That is put before him in aggressive form by the bill rendered by the tax gatherer of the municipality, and now by a similar officer representing the Dominion. To have to pay taxes of this kind once a year is a demand on one's patience and patriotism. But if, after one has paid, he receives a demand from another quarter for another payment of precisely the same kind, he is faced with a situation requiring a degree of both patience and patriotism that is not always readily available. He is tempted to protest, possibly to swear. An eminent Canadian General, in a recent English interview, said all Canadians swear. Probably he was thinking of tax bills.

On both sides of the ocean some good people interested, in one way or another, in Canada are raising the voice of protest against double taxation. Canadians who reside in England, but have retained interests in Canadian companies or business concerns, find themselves called upon to pay double taxation. Their property and interests are taxed in Canada, not only for municipal purposes, but also