

ARGUMENT IN SETTLERS' CASE

L. G. McPHILLIPS
BEFORE FULL COURT
Counsel Recalls the Days of
Agitation for
Union.

An echo of the stirring days when the terms of union as to the construction of a railway to the coast were a live issue here was heard in the Supreme court of British Columbia this morning, when L. G. McPhillips, K.C., took up the argument for the defendant in the settlers' case of the E. & N. Railway Company vs. Fiddick. The references in the course of his arguments embraced the terms of union and the many orders in council and acts passed in the early days of the province, dealing with the railway proposals and with the difficulties of the Dominion government in carrying out what was to the people of this then isolated province the most important condition upon which they entered confederation.

Mr. McPhillips plunged at once into the heart of his argument, which was that the E. & N. had no ownership of the lands, and therefore had no status in this case and no right of action. Nor had the Dominion ever acquired any rights to the lands on Vancouver Island until after the act of 1884. In any event section 11 of the Terms of Union provided that the province should not be sold or alienated any further portion of the public lands except by pre-emption. That section did not seem to point to the railway ending on the mainland, land being reserved for railway purposes on Vancouver Island, but the Dominion government undertaking to build a railway "towards the Pacific, to secure connection with the seaboard of British Columbia" would seem to mean some port on the west coast of the mainland.

However, assuming that the arrangement applied to Vancouver Island and that Esquimalt was to be the end of the line, Mr. McPhillips argued that the province was to have the absolute right to grant pre-emption rights. By order-in-council of June 30, 1878, the provincial government decided that "for the present a bare reservation of twenty miles on each side between Esquimalt harbor and Seymour Narrows be made until matters were discussed between province and Dominion." The conveyance of the land, when made, was to be subject to the province's right to grant pre-emption. On July 25, 1878, a further order-in-council was made, continuing the reservation "until fair opportunity shall be afforded the Dominion government to consider the subject." Time passed and still the line was not built.

It could not be argued, Mr. McPhillips contended, that a reservation such as this prevented the province from giving pre-emption rights. The province, at any moment after two years, could have sold the land, and certainly it could grant pre-emption. The E. & N. was not then in existence, and could not now claim that the Dominion could have sold the land.

The land in question had been surveyed in 1864 by the government, and this was an indication that it was suitable for agricultural purposes. Section 34 of the act of 1873 stated who could pre-empt surveyed lands and section 28 defined occupation as bona fide personal residence of the homestead settler, his family, or agent. Then in 1884 an entirely new agreement was made as to the handing over to the company building the line from Esquimalt to Nanaimo of the land so long reserved, except as to such lands in the area as were then held under crown grants, lease, agreement for sale or other alienation by the crown.

Dealing with the Settlers' Rights Act of 1884, Mr. McPhillips held that the title must be read as part of the act, and cited decisions in support of this contention. The act is entitled: "An act to secure to certain pioneer settlers within the Esquimalt & Nanaimo railway land belt their surface and under-surface rights." It recites that certain settlers who had been unable to obtain title prior to the passage of the act of 1884 and who had been evicted by the railway company in 1885 were entitled to peaceful and absolute possession of the lands occupied by them. Therefore, counsel declared, the defendant was entitled to his grant under the statute of 1875, and that right commenced from the time he took possession. He quoted several decisions along this line.

DEATH OF JAMES WADDELL

The death occurred at an early hour on Tuesday of James Waddell, of 1321 Stanley avenue, after a long illness. The deceased, who was 59 years of age and a native of Fifehire, Scotland, for many years carried on his trade as a professional gardener. Mr. Waddell came to Victoria many years ago, and some twenty years ago went to Australia. He remained there for 15 years, returning to Victoria five years ago, and residing here until the time of his death. He is the only relative here left to mourn his loss.

The regular weekly meeting of the Young People's Society at the First Presbyterian church was held Monday evening in the lecture room of the church. Peter McEneaney, the newly-elected president, presided. A short program consisting of songs, recitations by Misses Wilson and Harkness was rendered, after which an interesting address was given by Walter Walker, who has just returned from a visit to Scotland. Mr. Walker gave an account of his trip and related incidents which took place along his route. His trip was taken via the United States, and by the steamship Mauretania.

The government of Natal has returned to the use of creosoted ties for its railroads, after experimenting with hard wood for ten years. The former are found to be more easily handled and to be serviceable on sidings after removal from main lines, while hard wood ties may be used but once.

OFFICERS ELECTED.

Annual Meeting of Ladies' Aid of St. Andrew's Presbyterian Church.

The Ladies' Aid of St. Andrew's Presbyterian church held their annual meeting at the manse Tuesday afternoon, and, although owing to the very weather some attendance was not so large as had been hoped for, considerable business was transacted.

Officers for 1909 were elected as follows: President, Mrs. M. S. Smith; Mrs. R. A. Brown and Mrs. R. M. Smith; secretary, Mrs. E. S. Smith; treasurer, Mrs. Gordon; convener of flower committee, Miss Leitch.

After discussion, it was decided to continue the work of visiting hospitals, committees for the same to be elected at the next meeting. It was also decided that the meetings of the society should this year be held at the homes of the members instead of in the church parlor as formerly.

After considerable discussion, it was decided to try the system of dividing the city into three sections and forming the women members of St. Andrew's, St. James and St. George's into three sectional Ladies' Aid societies, each to carry on its work in its own way and to report to quarterly meetings of the whole society.

A congregational social will be held in the church parlors, under the auspices of the Ladies' Aid, during the week following the annual meeting of the congregation.

A full report of the year's work was submitted by the secretary, Mrs. E. S. Smith, which will be given again at the annual meeting of the congregation to be held in the near future. This meeting closed with the serving of refreshments and a short time spent in social intercourse.

REV. FATHER VULLINGHS IS LEAVING SAANICH

Will Go to Europe After Many
Years Labor in Church
Work.

After an incumbency of some sixteen years at Saanich, Rev. A. J. Vullings is about to take leave of his parishioners who, it is hardly necessary to state, keenly regret to learn of his contemplated departure for another, though no less important, field of labor. To the old-time residents of Saanich especially is observable the transformation which has occurred at many points throughout the peninsula during the tenure of the priestly residence there, the more noteworthy of the changes due to his influence being the erection of a new church at West Saanich and, in its immediate vicinity, a commodious school-house with residence, and at East Saanich the reconstructed church and school building, much of this progress being due to his own means and efforts.

In this connection mention may be made of a rare collection of trees and shrubs from many foreign countries which adorn the mission grounds fronting the Saanich Rectory. As is well known, Father Vullings is an enthusiast on the subject of arboriculture, and his beautiful garden has ever been a point of interest to visitors from far and near. Father Vullings was ever foremost in promoting all forms of healthful sport and social enjoyment throughout the district, and numerous and generous were his contributions to this end, a specific instance of which may be mentioned, the purchase of a set of some of the musical instruments for the formation of an Indian band, the performances of which helped to enliven many celebrations of the late Queen's birthday.

Father Vullings will leave the district with the respect and well-wishes of a host of friends, irrespective of creed. That the Indians with whom his knowledge chiefly lay have been greatly benefited in every sense by reason of his indefatigable efforts for their welfare is generally admitted and appreciated. For a few weeks spent with friends on the Island and the Mainland, it is Father Vullings' present intention to make a sojourn in Europe, returning after a well-earned holiday to the coast.

TWENTY-ROUND BOXING BOUT AT COAL CITY

Foley to Give Weight in Match
With Rod Stanton.

Red Stanton and Jimmy Foley have been practically matched to box a twenty-round bout at Nanaimo in two weeks under the banner of the Nanaimo Athletic Club.

Stanton is an Australian without any previous reputation except what he has made in this country. He recently won a bout in Nanaimo, and was thought highly of from his style of boxing and his ability to absorb punishment. That he will need this in a bout with Foley is very possible. Foley is the same lad who won here from Merryfield in the twentieth round a week ago. On his return from Nanaimo Foley will probably box again with Merryfield here.

Acting under the advice of Eddy Burns, Foley will remain here instead of going south to San Francisco to engage his four and six round bouts and gain some more experience around the northwest territory.

In the match with Stanton, Foley will have to give the Nanaimo man the advantage of ten pounds in weight. James Futler, credited with being the amateur bantam champion of England, is in Victoria looking for a match with a local man. The men who handled Merryfield-Foley bout may take him up if they can obtain an even matched opponent for him. One of the most promising looking bouts for him would be against Joe Bailey. If the newcomer shows he has class enough.

A series of meetings under the auspices of the Victoria Fruit Growers' Association, commencing on Thursday, January 7th, will be held in the various fruit-growing districts in the vicinity of Victoria. The dates so far arranged are: Gordon Head, Temperance hall, January 7th, at 8 p. m.; Keating's, Temperance hall, January 8th, at 8 p. m.; Cedar Hill, Temperance hall, January 11th, at 8 p. m.

THE SECHULT TRAGEDY.

Logger Was Attacked By Two Men
While on His Way Home.

Vancouver, Jan. 5.—Later information from Sechelt regarding the tragedy at that place is to the effect that Robie, a logger, who died after being beaten by two men, was attacked while on his way home. It is reported that the fatal fight occurred on a floating landing close to the home of the dead man.

The fight is said to have been witnessed by several people. At its conclusion the two men alleged to be responsible for the death of Robie left the place, and Robie went to his cabin, suffering from the terrible beating he is said to have received.

Not till yesterday morning was anything further heard of the case, and then the dead man's wife is said to have hailed some passers-by with information that her husband was dead. Investigation disclosed the fact that the body was in a terrible condition from the rough handling received in the fight. The police have gone up to make arrests.

COLD SNAP IS FELT ALONG PACIFIC COAST

Victoria, in Common With
Other Points, Experiences
Disagreeable Weather.

Victoria, in common with the rest of the North Pacific coast, was struck last night by a cold wave. Accompanying the cold was a high north wind, which made the conditions much worse. To-day, as a result of the snap, the plumbers are busy repairing pipes, which suffered from the drop in temperature.

The temperature, according to the Meteorological office's record, shows that at 5 o'clock this morning the lowest point was touched. It was then 14.5 above zero. At noon to-day, under a bright sun, the temperature had moderated somewhat, and showed 20 degrees above zero. In New Westminster, at 5 o'clock this morning, the thermometer showed 16 degrees above zero.

A knowledge at Mission out off the C. P. R. telegraph line so that no service was received here or in Vancouver. Four fire-alarms were responded to last night, and this morning by the local brigade. At 9:15 o'clock last night eight of the brigade to a Chinese restaurant on Cormorant street. At midnight the brigade was called to Government street, where a shack belonging to Chinese was found to be on fire. A man was found to be on the corner of St. John and Kingston street, where a small fire was extinguished. The last of the four trips was taken this morning about 1 o'clock, the fire being about the corner of St. Louis and Cook streets, where a rear shed was found on fire. The damage done at the latter was about \$100, but none of the others was of a serious nature.

In the habit of setting and they are anxious to buy. The wheat was the Calgary district, all Alberta product. The new railways outside of their own territory are especially attractive to journalists. The scenery is something like that of the Canadian Rockies without the snow, but the hills and valleys are much greener. The country abounds in waterfalls and near the line are a number of volcanoes, one of which is active. Taking the visit as a whole, Mr. Worsnop was especially pleased with the prospects in the country. While he did not think the country a desirable one in which to live, except in certain favored locations, yet from a trade and tourist point of view he considered it a land of great opportunities.

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JUDGE'S ASSIGNMENT REACHES HIM LATE

Mr. Justice Martin Leaves Explanatory Note for
Litigants.

(From Tuesday's Daily.)

There is another difference on between Chief Justice Hunter and Justice Martin. In a note dated December 30th the Chief Justice assigned his colleague to hold chambers and court in Vancouver from January 4th to January 29th inclusive. Notice of this assignment only reached him yesterday morning, January 4th. Mr. Justice Martin was in a letter to the registrar of the Supreme court, asking him to notify the solicitors in some matters lately heard. His lordship wishes to explain why he cannot render judgment at present, saying:

"Owing to the receipt only this morning of the annexed unexpected and dilatory assignment I shall regretfully be unable to do so because I leave for Vancouver to-night, and I see no chance of being able to take up these matters till I return."

The cases in which judgment is reserved are those of the Victoria West arbitration proceedings, Cuthbert vs. Lowe and Cunningham vs. Hochman, small claims applications, and two admiralty matters, Barber vs. Nederland and Dunsinuir vs. Otter. The two mainland judges, Mr. Justice Clement and Mr. Justice Morrison, are here sitting in full court, and will probably be kept busy until the middle of the month.

—W. N. Kirkpatrick, general freight agent of the C. P. R., who is at present in the city looking over the situation, is spending a month or two in the west, relieving Mr. Haldane of Vancouver, who has gone on a trip to Honolulu. Mr. Kirkpatrick will be known in the west, where he has spent most of his life. He left for the east about four years ago, making his headquarters at Montreal, St. Johns and Toronto, respectively, the latter being the place he calls home at the present time. Speaking of his return, Mr. Kirkpatrick says he has been much struck with the growth of Victoria and Vancouver since he left four years ago. The business, too, he thinks, has kept pace with the rest of the country, the increase being very marked.

The monthly meeting of the Missionary Study Class, will be held at Bishop's Close on Friday afternoon, at 8 o'clock. The subject for the meeting is the Moslem world.

CANADIAN WHEAT IN MEXICO

PRODUCT FINDS FAVOR
WHEREVER INTRODUCED

Porter Worsnop Tells of Opportunities for Trade in Southern Republic.

(From Wednesday's Daily.)

Porter Worsnop, of Vancouver, formerly Mexican consul at that place, has just returned from a ten weeks' trip through Mexico, where he has found the people very anxious to do business with Canadian wheat, and that the business at every town he visited. He has been over two sections of railway which have just opened up for business and finds that there are very many opportunities for trade in the practically undeveloped country traversed by them.

The Southern Pacific railway of Mexico extension was one of the lines over which he travelled. At the time he was there the line was built mostly by Mexican labor, and he found the people very anxious to do business with Canadian wheat, and that the business at every town he visited. He has been over two sections of railway which have just opened up for business and finds that there are very many opportunities for trade in the practically undeveloped country traversed by them.

The opportunity to send wheat came through a partial failure of the crop in Mexico and the consequent reduction of the duty in order not to injure the Mexican milling industry. Mr. Worsnop visited a number of the mills and found the flour of a distinctly high grade. In the habit of setting and they are anxious to buy. The wheat was the Calgary district, all Alberta product.

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ATLANTIC STEAMER FOR ALASKA RUN

St. Croix, Purchased by Schubach and Hamilton, to Arrive in March.

(From Tuesday's Daily.)

Seattle, Wn., Jan. 6.—Announcement was made yesterday that the steamer St. Croix, recently purchased on the Atlantic coast by Schubach and Hamilton, has been fixed for an indefinite period by the Alaska Coast Company to be operated by the charterers on the route to Valdez and other ports on the northwestern route for at least two months.

The St. Croix is billed to leave out for Valdez on the first voyage on March 28th. The St. Croix, which was purchased by the E. & N. railway line, is a new vessel, and is expected here on March 7th. She is a wooden steamer 240 feet in length, 1,998 tons gross and 1,064 net. She has triple expansion engines of 2,700 horse-power.

Her passenger accommodations are on the upper decks. She has 35 berth rooms, and in addition to these accommodations for first-class passengers has room for 200 second-class and 100 steerage passengers.

The steamer St. Croix will begin her long voyage from the Atlantic coast to Seattle direct, on Tuesday next. This advice was received by Albert Schubach from his partner, Charles H. Hamilton, who is in New York making preparations for the steamer's departure.

The St. Croix left Fall River, Mass., last Thursday, arriving at New York the day following. She has been dry docked and cleaned. The steamer will coal at Norfolk, where she will take sufficient fuel to bring her to Seattle without touching at any port en route. It is expected that she will make the voyage in fifty-five days, arriving there March 7th.

The St. Croix will not carry an excursion party of business men to South America, as her new owners are anxious to have her in Seattle as soon as possible.

The public library returns for the month of December shows that there were 4,610 books issued in the month. For the 26 days on which books were issued the daily average was 178. The highest daily issue in the month was 297, while on Saturday, January 2nd, the year commenced with 338, a record number. There were during December 67 new cards issued.

UNKNOWN STEAMER ASHORE.

Philadelphia, Pa., Jan. 6.—A telegram to the Philadelphia maritime exchange from Lewes, Delaware, says that a report has been received there that an unknown steamer is ashore about four miles from Smith Island lifesaving station, Va., near Cape Charles light.

WIDOW SPECKELS' ALLOWANCE.

San Francisco, Cal., Jan. 6.—A monthly allowance of \$4,000 was granted to Mrs. Anna Christina Speckels, widow of the late Claus Speckels, by Judge Coffey of the probate court yesterday. The allowance is to continue pending the probate of the will. The petition was signed by Mrs. Speckels and her son Rudolph, administrator under the will. The annual income of the estate is given at \$75,000.

QUAKE IN CANARY ISLES.

Teneriffe, Canary Islands, Jan. 6.—An earthquake lasting twelve seconds was felt here yesterday. It overturned furniture and set bells ringing in the houses. The people were taken by surprise, but no alarm, but no damage was done.

CHARTER MARKET CONTINUES QUIET

Holidays Have Depressing Effect on Shipping Business.

As a result of the holidays practically no business has been done during the week and the market remains unchanged, says the Vancouver Commercial News. Following the removal of the minimum grain rate for northern loading ships are reported to be offering at Portland at as low as 17s 6d, while exporters refuse to pay above 18s. At these low rates there is likely to be some chartering and a consequent diminishing of the burdened supply of disengaged tonnage on the coast. With plenty of tramp steamer tonnage within easy call, however, it is not likely that either grain or lumber freights will show any improvement for some time to come. The grain season is almost over both here and in the north, and the foreign demand for lumber is very poor. Consequently if any change takes place at all this year it will not be until well along in the summer.

Coastwise freights are firm at \$3.75 to this port and \$4.50 south. Offshore rates are quoted approximately as follows: Lumber from Puget Sound or British Columbia to the Sydney, 27s 6d/28s 3d; to Melbourne or Adelaide, 30s; Fort Erie, 30s/32s 6d; to Fremantle, 30s 6d; to Japan ports (steamer), 30s; to Callao, 30s 6d/32s 6d; to Valparaiso for orders, 40s/42s 6d; 2s 6d less to a direct port; to South African ports, 47s 6d to U. K. or Continent, 48s 6d/50s; Guyanas, \$5.75; Santa Rosalia, \$6.50.

Liverpool mail advices give the following quotations: 15s 6d quoted for nitrates Jan.-Feb. steam and sail steady at 13s 6d to 14s 6d; time charter coal from Virginia, 10s 6d; coal from St. 7s 2d; Australia's paying unit rates for wheat, but chartering quiet.

At a meeting of the Benchers of the Law Society held on Monday a complaint was laid against P. C. Elliott, a barrister from the interior, by Sheriff Handley of Golden. The complaint was looked into but will not be finally decided upon until the adjourned meeting later in the month.

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STOLEN BOAT; GOES TO JAIL.

Vancouver Magistrate Passes Sentence of Two Years' Imprisonment.

Vancouver, Jan. 5.—In a docket of 27 cases which came up before Magistrate Alexander yesterday morning, some seven sentences were handed out. Jim Mullin was convicted of having stolen a boat from a fisherman named J. Burns. Mullin's story was that he had been drinking with Burns and three other men at Christmas time, and on the following day his three companions and he had gone down to the slip where Mullin's boat was kept. There was a stove on the boat, and he had given his companions some money to go up town and buy some food. Mullin in the meantime, being half drunk, took out the sloop for a sail. Burns came down and saw him going out, and informed the police, who captured Mullin in the First Narrows.

The police tried in vain to find the companions Mullin had spoken of, and Magistrate Alexander further remarked that it was a peculiar coincidence that Mullin had taken Christmas time at the very time the tide was going out. The theft of a boat on which a man depended for a livelihood was a serious offence, and he sentenced him to two years with hard labor.

WOMAN LEGALLY IS NOT A PERSON

London, Jan. 5.—A woman is not a person. So the House of Lords, the ultimate court of appeal in Great Britain, decided the other day in dismissing the appeal of the woman graduates of the Scottish universities from the judgment of the Scottish courts that they were not entitled to vote in the election of those members of parliament who represent the universities.

Two women graduates, Miss Macmillan and Miss Simcoe, appeared in person to argue the appeal. In dismissing the appeal the Lord Chancellor, Lord Loreburn, declared that a woman giving a vote had been brought before them from another world. The disqualification of women had always been taken for granted. It was notorious that this right of voting had been confined to men; that was the constant tradition and practice from the earliest times down to the present day.

The appellants urged that the legal disability of women was removed by the Representation of the People (Scotland) Act of 1883, while confining to men the franchise described in other sections of the act. Lord Loreburn, while agreeing that "persons" would prima facie include women, held that the section limited "persons" to those who were not subject to any legal incapacity. By the English law, it may be recalled here, those classed under this term are "aliens, idiots, lunatics (except during lucid intervals), infants, peers, convicted felons, some others and women."

By the time the act was passed women could not be graduates of a university. If this legal disability of women were to be removed, concluded the Lord Chancellor, it must be done by Act of Parliament, but until then he was of the opinion that women are not "persons."

This decision has brought a swarm of indignant letters from women to every newspaper office in the United Kingdom. "What is it they ask, 'are we not persons?' Dictionaries describe a 'person' as a 'living, self-conscious being, as distinct from an animal, thing or place.' The riddle is evidently too much for even newspaper editors.

That the law in this respect stands in need of revision in other countries besides England is shown by the experience of a Frenchwoman who was travelling by train from Brussels to Paris the other day. At the Franco-Belgian frontier station she was asked whether she had anything to declare. She said no, but the customs officer in looking through her grip-sack came upon a three-quarter full of cigars and said she must pay duty on them.

She replied that the cigarettes were for her own use and that the regulations permitted smokers (smokers) to take a broken box. "Yes," said the customs man, "but the regulations apply only to fumeurs, not to fumeuses (women smokers). The fumeuse is not a person recognized by the law."

Arguing was of no avail; the official was adamant. That was the law, and the lady had to pay the duty.

SURVEYORS WELL ADVANCED WITH WORK

Estimates of Cost of Grading
Island Extension Sent to
Headquarters.

Albion, Jan. 5.—The greatest part of the estimates on cost of grading the mountain section of the Alberni extension of the E. & N. railway line, as it is being revised, were made up and sent to headquarters at the close of the year.

It is understood that the work of revising location now for enough of the mountain section of the Alberni extension of the E. & N. railway line, as it is being revised, were made up and sent to headquarters at the close of the year.

The trail above the right-of-way on the other side of the summit has been completed, and last week some necessary work of the same sort was done on this side of the divide.

The death occurred on Wednesday at the Jubilee hospital, Ernest Cyril Flewin, of this city, after a long and painful illness. Mr. Flewin was but 20 years of age and was a native of Victoria. Recently he had been engaged in prospecting in the Yukon. He was taken ill after entering the hospital at Ketchikan for treatment. Subsequently he came to his native city to go into the Jubilee hospital, but his complaint had taken such a firm grip of his constitution that he had passed away on Wednesday.

TROOPS FIRE ON INDIAN MOB

RIOTOUS SCENES BETWEEN
HINDUS AND MOHAMMEDANS

British Soldiers Have to Quell
Religious Outbreak at
Titaghar.

Calcutta, Jan. 5.—Religious riots between Mohammedans and Hindus have been serious since the late Mohammedan riots in the city of Titaghar. This occurred to-day at Titaghar.

The Hindus resumed the attacks of the two previous days on the mosque at Titaghar because the Mohammedans had destroyed the mosque. The Hindus destroyed sacred furniture in the mosque and partially demolished the walls. Inflamed Mohammedans gathered in defense of the mosque and were surrounded by a military cordon which formed a barrier between the Mohammedans and Hindu rioters, who assaulted the soldiers in an effort to come to close quarters with the Mohammedans. The troops fired upon the rioters, killing and wounding several.

Isolated combats between Hindus and Mohammedans are taking place throughout the disturbed district. The Mohammedans from more remote quarters are making their way to Titag