

not exceed the extra costs to be recovered by the defendants, I shall as a matter of convenience adjust them and allow the plaintiff a net sum of \$25 to be set off against the general costs of the defence hereinafter provided for:

The claim for penalties was a mere side issue, a peg perhaps upon which the plaintiff hoped to hang costs in the event of failing in his main claim. The whole contest was as to the plaintiff's right to recover damages for fraudulent misrepresentations alleged to have been made by the defendants to the plaintiff inducing him to purchase a business in Port Hope in October, 1911. . . . I dismiss this portion of the plaintiff's claim with costs to the defendant—these costs to be all the costs of defending the action except such foliage charges as relate specifically to the penalty claim. Against these costs when taxed, the plaintiff may set off pro tanto the \$25 allowed him." The learned Judge finds, as to the main branch of the case, that the sale was honestly and fairly entered into and carried out by the defendants. W. F. Kerr, for the plaintiff. W. S. Middlebro, K.C., for the defendants.

QUEBEC BANK v. SOVEREIGN BANK—BRITTON, J.—DEC. 12.

Right to Lumber—Action for Declaration—Facts Found in Prior Action.]—Action for a declaration that out of the spruce and balsam blocks in the yard of the Imperial Paper Mills of Canada, Limited, the plaintiffs are entitled to 400 cords, and that out of the jack-pine blocks in the same yard, the plaintiffs are entitled to 5,208 cords in priority to any claim of the defendants, and for an injunction, etc. BRITTON, J., said that all the rights of the parties to the blocks in the yard of the mill, which blocks were claimed by the plaintiffs, have been considered, and for the present determined, in a prior action between the parties. If that case has gone, or is to go further, the rights as claimed in this action may be further considered and determined there. This action in his opinion should be dismissed, but under all the circumstances, without costs. F. E. Hodgins, K.C., and D. T. Symons, K.C., for the plaintiffs. J. Bicknell, K.C., and W. J. Boland, for the defendants.

CORRECTION.

In *Rex v. Cook*, ante 383, the counsel for the magistrates and the private prosecutor was *C. S. Cameron*, not *M. C. Cameron*.