

CASE WILL NOW GO TO PRIVY COUNCIL

Davies Estate Scores in Second Round of Brickyard Litigation.

APPEAL SUCCEEDS

Appellate Division Reverses Decision of Mr. Justice Lennox.

The Davies estate scored in the second round of the famous Taylor-Davies litigation yesterday when the appellate division reversed the judgment of Mr. Justice Lennox setting aside the conveyance of E. H. L. Clark, assignee of Taylor Bros., of the late Robert Davies of 140 acres of land northeast of the city, including the Don Valley Brick Works. The case will now be carried by the Taylors to the judicial committee of the imperial privy council.

The opinion of the appellate court was delivered by Chief Justice Sir William Meredith. Justices Ferguson and Hodgins also filed opinions concurring in the result reached by the chief justice. The amount involved in the litigation is approximately \$1,500,000.

The Original Action. The original action was brought by Isabella Taylor on behalf of herself and other creditors of Taylor Bros., to set aside the conveyance of land above referred to, including the Don Valley Brick Works, and for a declaration that the late Robert Davies acquired the land in trust for the creditors of Taylor Bros. and their creditors. She claimed that Mr. Davies as an inspector in the assignment proceedings stood as a trustee for the creditors and could not buy in the property for his own benefit.

Had Lien on Property. Davies had a lien on the property for \$100,000. He took over the same at a private sale from the assignee at its appraised value, \$45,000. Since 1902, the date of the sale, real estate north-east of the city has made a spectacular rise in value, and Mr. Davies in 1913 secured \$300,000 from the C.N.R. for about seven acres of the land after it came into his possession. The brick works under his management proved to be a veritable gold mine, his earnings running as high as \$100,000 a year.

The Firm of Taylor Bros. assigned in 1902, E. H. L. Clark, who was a partner in the firm, to the management of the property. Mr. Davies, who was a partner in the firm, was one of the creditors as one of the assignees of the estate. He did not value security for his claim, as required by law, but apparently took it for granted that the value of the 140 acres, including the brick works, was less than \$100,000, the amount of his claim.

Mr. Clark, the assignee, concurred in this view and conveyed the property to Mr. Davies in 1903 for \$45,000.

Partnership Personnel. The partnership of Taylor Bros. at the time of the assignment consisted of John F. Taylor, Edward Taylor and William B. Taylor. William B. Taylor is the only surviving member and the present action was instituted by his wife, Isabella Taylor, as a creditor of the estate. William Laidlaw, K. C., is her solicitor and Mr. Justice Lennox, on behalf of the plaintiff, Wallace Nesbitt, K. C., and the late M. K. Cowan, K. C., while F. F. Hellmuth, K. C., and A. W. Ballantyne, K. C., appeared for Mr. Davies and W. N. Tilley, K. C., represented Mr. Clark.

In the appellate court the case was argued for the Taylors by Mr. Nesbitt and Christopher Robinson, K. C. and the other side was presented by Messrs. Hellmuth and Tilley. The original action was filed July 21, 1914, and was decided by Mr. Justice Lennox in favor of the Taylors in March, 1917. In the meantime Mr. Davies had died but his estate took appeal which has just resulted in their favor.

Appeal to Privy Council. William Laidlaw, K. C., solicitor for Mrs. Taylor, when seen by a reporter for The World last night, announced that an appeal bond was already prepared and that the case would be carried directly to the privy council.

The appellate division, in reversing the judgment of Mr. Justice Lennox, holds that the late Robert Davies did not acquire the property as a trustee and that it was at the time of the conveyance in 1902 worth less than the amount of his claim. Stress is also laid upon the fact that the Taylors acquired in the transaction and took no steps to set aside the conveyance for many years. It is suggested by the chief justice that the Taylors only commenced to move in the matter after the Canadian Northern Railway Company was condemned to pay \$300,000 for a small part of the property which it secured from Mr. Davies by expropriation proceedings. The meeting of creditors which ratified the conveyance from Clark to Davies is adjudged to be legal, altho the calling of such meeting was not advertised in the Ontario Gazette. The fact that Mr. Davies did not value his claim before taking over the property is held not to have been a sufficient irregularity to avoid the conveyance.

Chief Justice's Comment. In commenting upon the claim of the Davies estate that the Taylors, including Mrs. Taylor, the plaintiff, acquired in the conveyance from Clark to Davies and thought the consideration at the time to be adequate, Chief Justice Meredith said: "It is incomprehensible to me that anyone believing the property to have had such a value would have accepted the small dividend that was paid without making any enquiry as to how it was that so little was being realized from so valuable a property; and yet, if the husband is to be believed, he never made any enquiry as to what was being done with the valuable property which had been entrusted to the assignee. This leads me irresistibly to the conclusion that no one entertained any such extravagant views as to the value of the property as it is now said in the view that the estate was hopelessly insolvent, and that so far from there being anything left for the assignors, the creditors would receive only about one-fifth of the amount of their unsecured claims; and it is difficult to escape from the conclusion that it was not till after Davies had succeeded in obtaining and maintaining an award of a very large sum the compensation which a railway company was to pay him for an insignificant part of the property that the respondent husband came to the conclusion that it was unjust that Davies should enjoy the very large profit that his acquisition of the property will yield him, and decided to set about endeavoring to 'pick a hole' in the transaction by which he had acquired it, and thereby divert to themselves the whole or a part at least of the realized and prospective profits which otherwise would go to Davies."

NEW SERVICE BADGES ARRIVE IN TORONTO

First Consignment of A, B and C Decorations Will Be Distributed at Once.

Toronto military headquarters has just received the first consignment of the new grade A, B and C war service badges from Ottawa. The men entitled to wear these military decorations are requested to apply either by mail or in person for them, but special emphasis is given by headquarters to the fact that the badges will not be issued on the day application is made. Notices will be sent out by mail to each applicant telling him when his badge will be ready. In the case of men living out of town, the badges are to be sent by registered mail.

The A badges are for men who have served in France or other war fronts. The B badges for those who have served in England, and the C badges for service in Canada. There is practically no difference between the new A badges and those issued by the Canadian Patriotic Fund as far as the design is concerned, both having the Union Jack flag shield in the center and the words "For service at the front" across the top. One difference, however, is that the new button bears the letters "C.E.F." instead of "C.P.F." On the back of the A and C badges is printed the following warning: "Penalty for misuse, \$500 fine or six months imprisonment."

The B badges are nearly twice the size of the A badges, and very different in design, being made of light silver with a bright finish. At the top are the words, "For King and Empire," in the center a crown and "G. R. I." in monogram form, and at the bottom, "Services rendered."

The C badge, which is also larger than the A badge, is dull silver in finish and of artistic design. In the center is the word "Canada" and a crown; across the top, "For Honorable Service," and at the bottom, "three months leave."

Each recipient of a war service badge also receives a certificate which contains authorization to wear the decoration, and a description of the wearer for purposes of identification. **JASCHA HEIFETZ, VIOLINIST, TO PLAY IN TORONTO.**

The young Russian genius, Jascha Heifetz, the wonderful violinist, who is acclaimed by the press of New York, Boston and Chicago to be the greatest violinist who has played in America during the last 40 years, has been engaged for one recital in Canada. This appearance will be at Toronto and in Massey Hall on March 4. Wherever he is announced the halls and opera houses are sold out weeks before the event, and the enthusiasm over his performances exceeds that of any musician for years back. Heifetz is only 17 years of age.

PROVINCIAL ELECTIONS SOON. Charles McCrea, M.L.A., Sudbury, Gives This Opinion.

Charles McCrea, M.L.A. for Sudbury, was a visitor at the parliament buildings yesterday. Discussing the election result, he said the final majority for E. Lapierre in Nipissing was 1600, and that C. R. Harrison, the Unionist candidate, will hardly beat that figure in the solitary vote. In explaining this result he said that the French-Canadian element was strong in that district.

A provincial general election is almost assured during 1918, in Mr. McCrea's opinion, and he believes William Proudfoot will succeed Hon. N. W. Rowell as leader of the opposition.

DISTRIBUTED GOOD CHEER.

The Ladies' Auxiliary of the Overseas Club and the hospital committee of the Chamberlain Chapter, I.O.D.E., visited the Military Base Hospital on Christmas Day and every man in wards 14 and 17, which are the special care of the above organizations, received a basket prettily decorated and fairly glowing with Christmas cheer. Among those who distributed the baskets were Mrs. M. Farr, Mrs. Fane Sewell, Miss Pearson, Mrs. F. Ball and Mrs. Traub, of New York.

GIFTS GO TO HALIFAX.

Thru the efforts of Mrs. Anthony Crease and the assistance of friends, \$414 in cash together with fifty dollars' worth of toys, have been sent to Turro, N. S., for the relief of the women and children who are now there thru the disaster at Halifax.

IS PROOF SPIRITS OR ALCOHOL MEANT?

Intoxicating Liquors Defined as Different From Ontario Standard.

MAY HAVE MEANT SAME

Order Can Be Amended to Express Real Intention of Government.

The recent order-in-council forbidding the manufacture and sale of intoxicating liquors in Canada was still a lively topic of conversation in the city yesterday. An extra of The Canada Gazette containing an official copy of the order has been received, and it defines intoxicating liquor to be any beverage containing more than 2 1/2 per cent. of alcohol. This would authorize interprovincial traffic in a beer twice as strong as that now sanctioned by the Ontario Temperance Act of 1916. Hon. N. W. Rowell is out of the city, but those who are in a position to speak for him, say that the Dominion Government intended to adopt the Ontario standard. They say that the draftsmen evidently used the word "alcohol" in its proper sense, as being the same thing as proof spirits.

James Haveron, K.C., who for many years has been the solicitor for the Ontario Licensed Victuallers' Association and allied trades, said it did not make much difference if the wrong term was used in the order-in-council, because it could be amended to express the real intention of the government. Proof spirits, he said, was alcohol only in the sense that lemonade consists of equal proportions of alcohol and distilled water. The mixture is stronger if the quality between the water and the spirits be in volume instead of weight. Alcohol weighs less than water, so that 2 1/2 measures of water will weigh as much as 100 measures of alcohol. Many people, however, do not know the difference between proof spirits and alcohol, and the difference may never have been called to the attention of the ministers who passed the order-in-council. However, a new order-in-council can be passed at any time.

Rumor of Ontario Change. The World is unable to learn what foundation there was for the report that the Ontario Temperance Act is to be amended so as to permit the manufacture and sale of beer containing not more than 2 1/2 per cent. of alcohol, or about five per cent. of proof spirit. Such a report, however, has been in circulation, and was given currency by The Globe and The Mail.

The Order-in-Council.

The order-in-council itself reads as follows: Whereas the war committee of the privy council reports that there is urgent necessity for conserving all the energies and resources of Canada for the vigorous prosecution of the present war; and whereas the war committee recommends that for the purpose of preventing waste and promoting economy, the conservation of financial resources, and the increase of national efficiency the importation of intoxicating liquors be prohibited during the continuance of the war, and for one year thereafter; Therefore his excellency the governor-general-in-council, on the recommendation of the right honorable the prime minister, and under and in virtue of the provisions of the War Measures Act, 1914, is pleased to make the following regulations, and the same are hereby made and enacted accordingly:

Regulations. 1. No intoxicating liquors shall be imported or brought into Canada on or after the 24th of December, one thousand nine hundred and seventeen, unless actually purchased for exportation into Canada before that day and imported into Canada on or before the 1st day of January, one thousand nine hundred and eighteen, and the recommendation of the right honorable the prime minister, and under and in virtue of the provisions of the War Measures Act, 1914, is pleased to make the following regulations, and the same are hereby made and enacted accordingly:

2. For the purpose of these regulations any beverage or liquor containing more than two and one-half per cent. of alcohol shall be deemed to be intoxicating liquor for manufacturing or commercial purposes other than for the manufacture or use thereof as beverage.

3. These regulations shall continue in force during the continuance of the present war, and for twelve months thereafter.

ALBERTA PEOPLE BACK LIQUOR SUPPRESSION

Premier Stewart Telegraphs Approval to Sir Robert Borden.

Edmonton, Dec. 26.—Premier Charles Stewart this afternoon wired to Sir Robert Borden the following: In relation to the new order-in-council regarding the restrictions on the liquor traffic in the Dominion of Canada: "Aside from the national approval of any measure tending towards the conservation of all food products for strictly war purposes, the Dominion order-in-council prohibiting the transportation of liquor into any part of Canada wherein the sale is now illegal is the legal complement to the enforcing of the will of the people of this province as exemplified by the overwhelming majority given on the Alberta prohibition referendum."

SUPPLIES MISSING LINK IN TEMPERANCE CHAIN

Premier Norris of Manitoba Expresses Pleasure at Prohibition Law.

Winnipeg, Dec. 26.—Premier Norris (Manitoba) today gave the following statement to Canadian Press Limited: "In reference to the recent order passed by the Dominion Government concerning the control of the liquor traffic it is regarded as very satisfactory to the provincial government, rendering more effective the Manitoba Temperance Act. It supplies the missing link and will, I believe, be acceptable to the great majority of the people of the province."

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SASKATCHEWAN FAVORS PROHIBITORY MEASURE

Premier Martin Issues Statement Endorsing Action of Dominion Government.

Regina, Dec. 26.—Premier W. N. Martin of Saskatchewan expressed satisfaction with the prohibitory legislation enacted by the Dominion Government today and issued the following statement:

"The announcement that the Dominion Government by order-in-council under the War Measures Act, has determined that Canada, on April next, will be under a complete prohibitory law, has been received with general approval by the people of Saskatchewan."

"Almost all the provinces of Canada have now in force prohibitory laws which go as far as their constitutions will permit, but it was necessary for the Dominion to supplement the legislation by prohibiting the importation into Canada and by stopping trade in liquor between the provinces. The beneficial effects of our local prohibition law have been of such a character as to lead to the conclusion that Dominion-wide prohibition will be better. Economic conditions will also decrease waste and will so increase the efficiency of the nation that we will be assured of still greater efforts being put forth to see that Canada performs her full duty in the great world crisis."

(Signed) "W. N. Martin."

PROOF SPIRITS BARRED BY NEWEST DECREE

Government Makes Amendments to Prohibition Order to Harmonize With Provincial Law.

Ottawa, Dec. 26.—In the regulations touching the importation and sale of liquor adopted by the government on Dec. 23, the general phrase "alcohol" was used in dealing with the alcoholic contents of liquors which should be deemed intoxicating by the severe provincial prohibition statutes make use of the technical phrase "proof spirits," a slightly lower alcoholic content has been considered advisable to amend section two of Saturday's regulations by substituting the words "proof spirits" for the word "alcohol" therein, thus obviating any possibility of confusion which would arise from two different standards. This amending order, which it is understood was passed at today's council meeting, brings the provincial laws and the Dominion regulations into complete harmony in this regard and removes all possibility of misunderstanding.

Province Has Right to Tax Company With Federal Charter

The divisional court yesterday before Chief Justice Sir William Meredith allowed the appeal of the attorney-general in the case of the Harris Lithographing Company and so upheld Ontario's right to tax a licensee from Dominion companies doing business in this province.

"The basic principle of the British North America Act," the chief justice, "was intended to be that each province should be autonomous and master of its own house."

Originally Justice Maclean held that the extra-provincial corporation was ultra vires, but by the decision yesterday this was reversed.

ESCAPE THRU WINDOW.

Finger smudges and other marks on the dusty window of the juvenile court show how Jacob Rosen and Robert Dorian made their escape while they were awaiting trial for the theft of a motor car. The two youths were in the detention room, and by placing a table under the window they were able to reach the sill and then drop 10 feet to the floor beneath. The youths are still at large. No one appears to have seen or heard them go.

NATIONAL DAY OF PRAYER.

January 6, the first Sunday of the New Year, will, at the suggestion of His Majesty King George, be observed throughout the empire as a day of special prayer and petition. The idea is being taken up enthusiastically in Toronto, the heads of the various denominations arranging the services to take place on that occasion. A point that will be emphasized on this special day of national worship will be the need for reliance upon God in this critical period in the world's history.

BRICKLAYERS AT FRONT.

John Vick, of Local No. 2 of the Bricklayers' Union, told a reporter for The World that his lodge had sent 227 men to the front and that 23 of these had been killed. The lodge has also sent 10,000 bricks and a large quantity of cement to the front, and is still carrying on.



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DOCTOR UNDER ARREST IN WARD AT HOSPITAL

Action Taken Following Death of Girl After Alleged Illegal Operation.

Dr. R. McP. Turner, 391 Gerrard st., is being held by the police on a charge of manslaughter in connection with the death of Marion Stone who died yesterday at the General Hospital following an alleged illegal operation. Dr. Turner himself is confined to St. Michael's Hospital suffering from blood poisoning. His condition is said to be very grave.

According to Inspector of Detectives Kennedy the warrant for the doctor's arrest had originally been for performing an illegal operation but this following the girl's death, was changed to the more serious charge of manslaughter.

PREMIER CONGRATULATED.

College Street Baptist Church Sends Its Appreciation of Legislation.

At a general congregational meeting of College Street Baptist Church last night the following resolution was drafted and will be sent to Sir Robert Borden:

ARGENTEUIL SEAT LIKELY FOR UNION

R. A. Drapeau, K.C., Makes Statement in Toronto to This Effect.

R. A. Drapeau, K.C., of Montreal, was in the city yesterday and left for Ottawa last night. He is one of the counsel who are looking after the recount in the electoral riding of Argenteuil, Quebec, and is satisfied that the Union government candidate will be given the seat. Seen by a reporter at the King Edward Hotel last evening, Mr. Drapeau said:

"I am a French-Canadian and a Roman Catholic, but I am also a life-long Conservative. My father-in-law was Hon. Mr. Mousseau, who for many years was a minister of the crown in Sir John Macdonald's cabinet. I am therefore anxious that the people of Ontario should not run away with the idea that we are all disloyal in Quebec."

COMMITTED FOR TRIAL.

William McFarlane was committed for trial in the police court yesterday, on a charge of stealing \$48 from Norman Racey, who had his pocket picked by the thief while standing at the corner of King and Yonge streets. McFarlane ran when accused by a police officer and was chased thru the streets to Queen's park where he was finally captured after the policeman had fired six shots at him from his revolver.

SHOE MEN DISPEASED WITH QUEBEC CONTRACTS

Labor Men Denounce Workers Have Been Idle for Months and Prospects Poor.

The boot and shoe workers of Ontario are disappointed at the action of the government purchasing committee in giving the army shoe contracts to firms in the Province of Quebec, as evidenced in the contract awarded to a firm in Pleissville, Ontario working men and women claim that in view of their staunch loyalty to the cause of the allies the least the government could have done was to award boot and shoe contracts within the province. So an official of Local No. 223 of the boot and shoe workers' union stated to a reporter for The World, "This work," he said, "would have helped them largely to pay for their Victory bonds. It knows many cases of workers who have been out of employment for two months, with no prospect yet of getting any. Army shoe contracts with Ontario firms would have meant a great deal to the workers in and around Toronto."

ORGANIZING FOR CANDIDATE.

Ward One to Be Canvassed in Interests of Walter Brown.

An organization meeting called for the purpose of arranging for the canvassing of as many sub-divisions as possible in the interests of Walter Brown, president of Toronto District Labor Council, who is an alderman candidate in Ward One, was held in Armstrong's Hall, Pape avenue, last night. J. T. Gunn presided. The meeting also discussed plans for the extension of the Ward One Labor party and the organizing of a women's auxiliary branch. The co-operation of other political organizations is being sought in order to form a Ward One debating club. The labor men are planning a syllabus of lectures for the coming season.

Apparatus that manufactures gas from 98 per cent. air and 2 per cent. gasoline vapor has been invented by an Australian.

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