

quimault to Nanaimo. H. & Co., claiming that the statute entitled them to a conveyance of these lands from the company, applied under the Pre-emption Act for registration of lots of one hundred and sixty acres each which was refused, and the refusal was confirmed by the chief commissioner. No appeal was taken to the Supreme Court, as the Act allows, but suits were brought against the company by each applicant for a declaration of his right to purchase said lands upon payment of said price of \$1 per acre therefor.

Held, affirming the decision of the Supreme Court of British Columbia, that the Settlement Act did not operate to open for settlement lands reserved, as these were for a town site, and that the applicants had never entered thereupon as actual settlers for agricultural purposes, but had express notice when they entered that they were not open for settlement as agricultural lands.

Appeal dismissed with costs.

S. H. Blake, Q.C., for the appellants.

Moss, Q.C., and Davie, Q.C., for the respondents.

EXCHEQUER COURT OF CANADA.

BURIDGE, J.]

[March 18.]

CLARK ET AL. v. THE QUEEN.

Practice—Extension of time for leave to appeal after period prescribed by statute has expired—The Exchequer Court Act (1887) s. 51—53 Vict., c. 35, s. 1—Grounds upon which extension will be granted.

(1) Where sufficient grounds are disclosed, the time for leave to appeal from a judgment of the Exchequer Court of Canada prescribed by s. 51 of The Exchequer Court Act (as amended by 53 Vict., c. 35, s. 1) may be extended after such prescribed time has expired. The application in this case was made within three days after the expiry of the thirty days within which an appeal could have been taken.

(2) The fact that a solicitor who has received instructions to appeal has fallen ill before carrying out such instructions affords a sufficient ground upon which an extension may be allowed after the time for leave to appeal prescribed by the statutes has expired.

(3) Pressure of public business preventing a consultation between the Attorney-General for Canada and his solicitor within the prescribed

time for leave to appeal is sufficient reason for an extension being granted, although the application therefor may not be made until after the expiry of such prescribed time.

Hogg, Q.C., for the motion.

McCarthy, Q.C., and Christie, Q.C., contra.

[March 21.]

CORSE ET AL. v. THE QUEEN.

Goods stolen while in bond in customs warehouse—Claim for value thereof against the Crown—Crown not a bailee—Personal remedy against officer through whose act or negligence the loss happens.

The plaintiffs sought to recover from the Crown the sum of \$465.74 and interest for the duty paid value of a quantity of glazier's diamonds alleged to have been stolen from a box in which they had been shipped at London while the box was at the examining warehouse at the port of Montreal.

On the 21st February, 1890, it appeared that the box mentioned was in bond at a warehouse for packages used by the Grand Trunk Railway at Point St. Charles, Montreal, and on that day the plaintiffs made an entry of the goods at the customs house, and paid the duty thereon (\$107.10). On Monday, the 24th, the customs' officer in charge of the warehouse at Point St. Charles delivered the box to the foreman of the customs house carters, who in turn delivered it to one of his carters, who took it, with the other parcels, and delivered it to a checker at the customs' examining warehouse. The box was then put on a lift and sent up to the third floor of the building, where it remained one or two days. It was then brought down to the second floor and examined, when it was found that the diamonds had been stolen, the theft having been committed by removing the bottom of the box.

Although the evidence that the theft was committed while the box was at the customs' examining warehouse at Montreal was not conclusive, the court drew that inference for the purposes of the case.

Held, (1) that, admitting the diamonds were stolen while in the examining warehouse, the Crown is not liable therefor.

(2) In such a case the Crown is not a bailee. The temporary control and custody of goods imported into Canada which the law gives to