

# **NORTHERN CROWN BANK VERSUS GREAT WEST LUMBER COMPANY.**

Judgment for a claim involving \$600,000 was awarded to the Northern Crown Bank against the Great West Lumber Company in a decision by the Supreme Court of Alberta, sitting en banc, to hear the appeal from the opinion previously given by Chief Justice Harvey at Calgary against the Bank. The principal points in the decision by Mr. Justice Beck, handed down in Edmonton, were concurred in by Justices Simmons and Stuart. The Bank also received judgment for the cost of the appeal and the trial court.

The chief point raised in the appeal was, how far may a bank go in its relations with a customer without contravening the clause in the banking act which prohibits a bank from directly or indirectly "dealing in the buying, selling or bartering of goods, wares or merchandise, or engaging or being engaged in any trade or business whatsoever."

The testimony shows that the Northern Crown Bank had acquired a controlling interest in the lumbering company and it was contended that in exercising the powers which controlling interests gave them, the officials of the Bank had contravened the foregoing clause in the banking act.

The original action was instituted by the Bank to enforce the payment of promissory notes for large amounts and on certain mortgages and liens under the Bank Act given as collateral security. After the trial of the action Chief Justice Harvey, in giving judgment, said:

"I find it impossible to come to any other conclusion than that the bank was carrying on the company's business—if not in form, certainly in substance; if not directly, at least indirectly."

Chief Justice Harvey dismissed the claim of the Bank against the Company for moneys advanced by the bank subsequent to December, 1907, on the ground that the Bank had been carrying on the business of the Company contrary to section 76 of the Bank Act, and also declared that the securities taken by the Bank for indebtedness subsequent to that date were invalid on the same ground.

In giving judgment on the appeal, Mr. Justice Beck said that nothing in the history of the affair led him to conclude that at any stage was the Bank, either directly or indirectly, "dealing in the buying, selling or bartering of goods, wares or merchandise."

"Unquestionably," the judgment adds, "the Bank was not doing so directly. If it was doing so at all it was doing so through the medium and intervention of the Company. The Company was a distinct legal entity. The mere fact that the Bank had acquired a controlling interest, and thus was enabled to, and did in reality, direct the affairs of the Company, could not destroy the fact of the separate legal existence of the Bank and the Company."

His Lordship concludes as follows: "I think that plaintiffs are entitled to judgment for the amount of their claim, with the exception (1) that the sum of \$6,950, secured by mortgage on September 27, 1911, is to bear interest at 5 per cent. only, the stipulation for interest at 8 per cent. being void under the Bank Act, and (2) that it be left to a referee to be determined whether, in making up the amounts of any of the notes or securities, the Company has been improperly charged with a larger amount than was actually and legally owing, by reason of an excessive rate of interest on earlier indebtedness having been charged."

## **LIGHT ON MACDONALD FINANCING.**

The newly-issued report of the A. Macdonald Company contains some highly interesting details regarding the financing adopted in connection with this Company. It is stated that the Dominion Bond Company is still indebted to the Macdonald Company to the extent of \$177,600.74 and are also liable on their underwriting agreement for the unsold balance of preferred stock to the extent of \$333,200. It is stated that the present directors will make a very vigorous investigation and effort to collect from the Dominion Bond Company, Limited, the amount due the Macdonald Company both in respect to stock already sold (for which the money has not yet been paid the company) and for the completion of the underwriting agreement providing for the sale of the balance of the preferred stock.

The original board of directors is severely criticized for depleting the resources of the company by the payment of \$75,000 cash dividends to the holders of ordinary stock, "more especially during a period of general depression and at a time when your company was still indebted to the old A. Macdonald Company for approximately \$800,000, upon which extensions had to be arranged."

As the company must provide \$200,000 on November 1st, 1914, 1915 and 1916, or \$600,000 in all, to retire the short-term notes now outstanding, Mr. Riley, president, states that the directors are of the opinion that payment of preferred dividends should be deferred until arrangements have been made to fund the notes, this notwithstanding the fact that earnings are almost double the amount required for dividends on the preferred stock and interest on the first mortgage notes.

The financial statement is much as expected and not an unsatisfactory document. The period covered is thirteen months, during which time the net profit amounted to \$231,273, equal to about 4.7 per cent. on the common stock as the Company is now financed.

## **LITTLE WHEAT WASTED.**

A bulletin issued by the Census and Statistics Office reports on the proportion of grain of last year's harvest that proved of merchantable quality and upon the quantities in farmers' hands at the end of March, 1914, the report being based upon returns by crop-reporting correspondents on March 31. Of the total estimated production of wheat in Canada in 1913, amounting to 231,717,000 bushels, 224,810,000 bushels, or 97 p.c., proved to be of merchantable quality. This is a larger proportion than in any previous year since estimates were first obtained in 1910, and bears out the known results of last year's excellent ripening and harvesting season in the Northwest provinces. The corresponding percentages in previous years were 92, 87 and 94. By provinces the proportions are lower throughout eastern Canada, being about 87 p.c. for Prince Edward Island and Nova Scotia, 90.5 p.c. in New Brunswick, 90 p.c. in Quebec and 91 p.c. in Ontario. In British Columbia the proportion was 85.6 p.c.

About 16.5 p.c. of the total Canadian wheat crop in 1913 is reported as remaining in farmers' hands at March 31, 1914, this proportion representing 38,353,000 bushels. This too is a lower figure than in any previous year and is consistent with the high records of inspection and shipment.