

## SUPREME COURT CASES ARGUED; JUDGMENTS

*Several Appeal Cases Heard at Ottawa in which Decisions Were Given during the week.*

### NOVA SCOTIA LIST

The Supreme Court on March 3 heard *Jodoin v. Molson's Bank and Jodoin v. Pennington*, in which motions were made to quash for want of jurisdiction. The action in these cases claimed \$2,600, and the appeal is from the judgment of the Court of Review. Appellants' counsel argued that appellants really had a claim for \$70,000, but the court held that the appeal did not lie.

Perrault, K.C., appeared to support the motion.

P. H. Coté, K.C., contra.

Argument was then heard on the appeal of *Ettinger v. Atlantic Lumber Company*, in which the Supreme Court of Nova Scotia dismissed the action.

The case is one of trespass between the holdings of both parties granted by the Crown. The question to be decided is the location of the dividing line between the two parties, and this has to be established by old plans and surveys and some oral testimony.

Henry, K.C., and Sangster appeared for the appellant.

Paton, K.C., and Hanway for the respondents.

In the Supreme Court on February 26 argument in *Fawcett v. Hatfield* was concluded and judgment reserved.

O'Leary v. Smith was next argued. The appellant sold respondent 500 bushels of potatoes coming by water from Shippigan, Gloucester county, to be loaded on cars at Newcastle. The goods were loaded as agreed, consigned to Centreville, and when arrived there part were found to be frozen. In an action by appellant for the price the case turned on the condition of the potatoes when loaded. The jury found all facts in favour of appellant, but the Appeal Division set aside a verdict in his favour and ordered a new trial for misdirection and that the verdict was against the weight of evidence.

Teed, K.C., appeared for the appellant.

Baxter, K.C., and R. P. Hartley for the respondent.

In the Supreme Court on February 27, the argument in *O'Leary v. Smith* was concluded. Judgment was reserved.

The next case heard was *McLellan v. Downey*. The respondents were creditors of the commissioners of sewers for the parish of Hopewell in Albert County, New Brunswick. They had a claim for work and labour on the dykes and aboideaux protecting the marsh lands in said parish, and brought action against the commissioners and owners of the marsh lands on which the work was done asking for a declaration of their rights, an account of the amount due them and of the property of the commissioners and of the rates levied since the work was done, the appointment of a receiver of such property and rates and an order for the defendant owners of marsh lands to pay the assessments due thereon.

The defendants pleaded the Statute of Limitations, want of jurisdiction of the commissioners and that plaintiffs took the wrong proceeding, the only remedy being mandamus. The court below held against these contentions.

Baxter, K.C., appeared for the appellants.

Teed, K.C., for the respondents.

In the Supreme Court on February 28 the argument in *McLellan v. Downey* was concluded and judgment was reserved.

*Nagle v. The King* was next heard. This was an appeal from the judgment of the Exchequer Court in an expropriation case. Fifty-nine out of 105 acres of appellants' land was taken in 1917 for the Government railway. Ap-

pellants had bought the whole tract in 1914 for \$525, more especially for the pine on it, and afterwards discovered that it contained considerable gravel.

The Crown offered \$1,492 as compensation, which was refused. The Exchequer Court held that this was sufficient and that the Crown was the only possible purchaser of the gravel. The appellants claimed that there might be a future market for it elsewhere which should be considered. The witnesses put a much higher value on the property than the sum offered.

Baxter, K.C., for the appellants.

Nansen, K.C., for the Crown.

At the conclusion of the argument for the appellants the appeal was dismissed with costs.

The following judgments have been given out:—

*Clarkson v. Dominion Bank*.—Appeal dismissed as to Ontario mortgage. Appeal allowed as to Quebec mortgage, Anglin J. dissenting on latter point. Appeal as to other securities under the Bank Act dismissed, subject to a modification as to the \$17,600 advanced after the presentation of the petition for winding up as indicated in the Chief Justice's notes for judgment. Appellant to have one-quarter costs of appeal. Subsequent costs, if any, to be disposed of by a judge of the Supreme Court of Ontario in Chambers. Idington and Brodeur J.J. dissenting would allow the appeal as to the said other securities.

*Adolph Lumber Company v. Meadow Creek Lumber Company*.—Appeal is allowed with costs here and in court appealed from and judgment of the trial court restored, Idington J. dissenting.

*DeVall v. German et al.*—Appeal allowed and the judgment of the trial judge restored with costs throughout, and modification of the damages as indicated in notes of Mr. Justice Anglin. Idington J. would limit the damages to \$750 and dispense with a reference, and Brodeur J. dissents and would dismiss the appeal.

*Thompson v. Merchants Bank*.—Appeal allowed and action dismissed with costs throughout, the Chief Justice and Idington J. dissenting.

*Larsen v. Boyd*.—Appeal dismissed with costs, Idington J. dissenting.

*McCarthy v. Regina*.—Appeal allowed with costs in this court and costs of motion to vary the judgment in Court of Appeal. Chief Justice dissenting would dismiss the appeal.

*C.P.R. v. Hay*.—Appeal allowed with costs throughout and action dismissed.

*Fawcett v. Hatfield*.—Appeal allowed with costs here and in Court of Appeal and judgment of trial judge restored, Brodeur J. dissenting.

## REGULATIONS AFFECTING ALIENS ARE CANCELLED

### Orders which Allowed Easy Means of Naturalization Rescinded.

Three Orders in Council passed during 1917 dealing with enemy aliens are cancelled by a new order passed on February 24, as follows:

His Excellency the Governor General in Council, on the recommendation of the Secretary of State, is pleased to order and it is hereby ordered that the following Orders in Council shall be and the same are hereby cancelled:—

P.C. 2552 of the 13th September, 1917, providing for the naturalization of alien enemies who have resided for many years in Canada on its being shown that they are clearly in sympathy with the United Kingdom and its Allies in the present war, and that they have no pro-German or other alien enemy affiliations or connections;

P.C. 2948 of the 20th October, 1917, providing that the ordinary notice of applications for naturalization, in cases under the above-mentioned order, shall not be required; and

P.C. 3297 of the 30th November, 1917, providing for the amendment of the Tariff of Fees under the Naturalization Act, so that in the case of applications under the above-mentioned Order in Council, P.C. 2948, fees shall not be taken by the judge or the clerk of the court.

## WORK OF SOLDIERS' SETTLEMENT BOARD PROCEEDS SMOOTHLY

*Committee of Inquiry and Appraisal Organized to Inspect Districts where Settlement is Anticipated.*

### NOW INVESTIGATING B.C.

No commissions will be paid on the purchase of land for soldier settlers, according to a statement by Mr. W. J. Black, chairman of the Soldier Settlement Board. The land will be purchased direct from the owners and commission men will not be considered.

It is the purpose of the Board to give the settler the benefit of every method that can be employed to save him money. Land will be appraised according to its real value, and it is that value which the soldier will have to pay, and no more.

The work of the Soldier Settlement Board throughout Canada is proceeding smoothly and soldier settlers are being prepared for the land as rapidly as possible. Qualification committees are at work in all the provinces and large numbers of veterans are coming forward, especially, in the West, to make their claims. Many veterans are taking up farms and homesteads and will be in a position as soon as the season opens to break land.

A report from the Soldiers' Settlement Board states that in some provinces where there are special problems to be dealt with the Soldier Settlement Board is organizing committees of inquiry and appraisal. These committees will visit districts in which it is anticipated that the settlement of soldiers will be carried out.

A committee is now at work in British Columbia and is giving consideration to such matters as the size of individual farms for the different types of farming, the length of the period from the time of settlement until profitable production becomes possible, availability of water supply, capital investment in equipment, market conditions, and such other matters affecting the possibility of profitable farming and the enjoyment of such social conditions as relate to the contentment of rural residents.

In Ontario a committee has been formed to determine the best policy to be pursued in regard to settlement on small holdings. A large number of veterans are desirous of locating on small farms for the purpose of engaging in poultry farming, market gardening, fruit gardening, bee keeping, and other activities of like character.

A committee has also been appointed to deal with the expropriation of lands held under grazing leases in Southern Alberta to ascertain what lands would be suitable for mixed farming of such a character as will be followed by soldier settlers. The latter will commence operations as early as weather and field conditions will permit.

W.S. and Thrift Stamps pay well.

## TO FORM TRADE GROUPS TO WORK WITH COMMISSION

*It is hoped to enable Information Secured to be more rapidly Communicated to Trades.*

The Canadian Trade Commission has issued invitations to manufacturers to attend conferences at Ottawa for the purpose of forming groups through which information secured by the Commission may be communicated to the trades. Much of the business to be secured at the present time in Europe is of an urgent character and it has been found necessary to organize in the manner indicated so that information coming to the Commission may be made immediately available to all concerned. Any manufacturer or exporter who has not received an invitation but who wishes to attend the conferences is invited. The date of the first meeting, for the Agricultural Machinery Industry, is Wednesday, March 5, at 10.30 a.m. The dates for the other meetings will be announced later.

## ADVANCE GIVEN TO MEN GETTING VOCATIONAL PAY

[Continued from page 1.]

Married man, wife, and five children: Canada, \$122; Great Britain, \$61.53; United States, \$122.50.

Married man, wife, and six children: Canada, \$128; Great Britain, \$65.88; United States, \$125.

The main features of the Order in Council are summarized as follows:—

1. The Canadian Government increases its allowances if training compels a man to live away from his dependents, if the man has dependents for whom full allowances are payable.

2. Allowances are paid by the Canadian Government in respect of children of a married man in excess of the number of six, and at the rate of \$6 per child per month for each of such children. A man with wife and seven children would therefore be paid a monthly allowance of \$134, and such a man with wife and eight children would be paid \$140 per month.

3. No additional allowances are paid by the United States Government to a married man for children in excess of the number of six.

4. No additional allowances are paid by the Australian Government to a married man for children in excess of the number of two.

5. The allowances herein shown as being those paid by the British Government are the minimum paid by that country. British allowances are graduated and payable according to the rank held by man at time of his discharge from the army or other force.

6. The allowance of \$62.57 paid by the New Zealand Government is the only allowance paid, and is payable to either a single or married man or a widower with children.

7. Allowances are payable by the Canadian Government for the dependent children of a widower and the dependent parent or parents and brothers or sisters of a single man.

The regulation stating that men marrying while undergoing training would be considered single men as far as pay and allowances are concerned has been cancelled. A man marrying during the progress of his training will now receive the allowances paid to a married man.