

OFFERS NATIONALITY AS A DEFENSE IN COURT ACTION

\$1,279 Claimed for Ties and Lumber—Plaintiffs Alleged To Be Germans

The Hon. Mr. Justice Ives has a case before him, which is out of the ordinary inasmuch as it is the first time since the outbreak of the war that the nationality of a German has been raised as a defense. The action is that of Glese Brothers vs. William Henry Bell and Peter McPhee, who are claiming \$1,279 for ties and lumber supplied according to a contract entered into between the parties.

An alternative clause in the statement of defense sets forth that "the defendants will contend at the trial of this action that the plaintiffs are foreigners and natives of the empire of Germany and that on August 5, 1914, a date prior to the commencement of this action, war was declared by Great Britain and her colonies and dependencies against the empire of Germany and that the Dominion of Canada, of which the province of Alberta is a part, is a dependence of Great Britain, and that they (the plaintiffs) are not competent to bring action during the pendency of the said war and further that the plaintiffs are without the scope or without the protection of the civil law, during the continuance of the said war."

Balance of Sum Due

The amount claimed by the plaintiffs was the balance of a sum due under a contract entered into between the parties in 1913, by which the former were to cut railway ties and manufactured lumber for the defendants. This they did as far as the timber on the limit would permit, but the defendants claimed that what they had cut was of a very inferior quality and not properly dimensioned or planed. They also stated that a settlement had been reached by which they were to pay \$677.33 in full settlement and discharge.

Plaintiff Denies

This the plaintiffs denied, stating that they could not get out sufficient ties and lumber because certain of the former were rejected by the C.N.R. inspector. They claimed that the said settlement was obtained by certain false representations to one of the plaintiffs who was ignorant and inexperienced in business, and his signature was obtained by improper means.

D. W. Mackay is appearing for the plaintiffs and H. H. Robertson for the defendants.