

COAL MINING COMPANY SUED

Application to Quash Action on Ground That One of Plain- tiffs is an Alien Enemy.

The Vancouver & Nanaimo Coal Mining Company, of which Alvo von Alvensleben was the original promoter, are the defendants in an action which was recently brought against them by Alexander McEachern and John C. Fry for the sum of \$75,000, the balance alleged to be due them on the mining property bought by the company on its organization.

The matter was up in supreme court chambers this morning in the form of an application to quash, on the ground that one of the plaintiffs, John C. Fry, was an alien enemy and therefore deprived of his rights to sue, and that the contract of the company to pay the money being a joint one, the other plaintiff was also out of court. The original price of the claims sold by the plaintiffs to the mining company was \$150,000, half of which had been paid. When the war broke out, Fry, who was a naturalized German-Canadian, left for the States and immediately took steps in Seattle to become an American citizen. A photograph of his application for citizenship in the States was produced, it being contended that this was proof that he had abandoned his Canadian citizenship and had deprived himself of his rights.

It was pointed out by Mr. A. M. Harper, who appeared for the plaintiff, that the point as to whether Fry could be considered an alien enemy was a nice one, and that even if he was, the question as to whether or not his partner McLellan was out of court was not clear. He argued that the matter was not one to be settled in chambers, but before a trial judge, and as the case had been set down for trial at an early date nothing could be lost by such a short delay. His Lordship agreed with this position, and accordingly dismissed the application. Mr. J. L. C. Abbott appeared for the applicants.