

AT OSGOODE HALL

BOWMAN HOLDS HIS JUDGMENT FOR DAMAGES.

Allen Enemies Cannot Now be Naturalized Under the Act—Setting Aside Marriage Said to be Ultra Vires Legislation.

ANNOUNCEMENTS.

Motions set down for Single Court for Thursday, 20th Inst., at 11 a.m.:

1, Peplatt v. Reeder; 2, Olstein v. Mahoney; 3, Johnson v. Dovercourt Land Co.; 4, re Balley and Crook.

Peremptory list for Second Divisional Court for Thursday, 20th Inst., at 11 a.m.:

1, Re Lilli D'Andrea; 2, Villin v. Toronto Power Co.; 3 and 4, Bell v. Smith; 5, Taylor v. Mullen; 6 and 7, Grants Brewery Co. v. Leonard, Leonard v. Grants Brewery Co.

MASTER'S CHAMBERS.

Before J. A. C. Cameron, Master.

Trust & Guarantee Co. v. Boal.—M. J. Follinsbee, for plaintiff, moved for examination of defendant for discovery. J. C. McRuer for defendant. Order made for examination of defendant at Voorbeesville, N.Y. Costs reserved to taxing officer.

Darling v. Gardner.—H. B. White, for defendant, moved to dismiss action for failure to deliver statement of claim. E. E. Wallace for plaintiff. Order made that plaintiff deliver claim in one week. Costs to defendant in caudo.

Foucault v. Prontice.—L. Macaulay, for defendant, moved to set aside notice of trial. No one contra. Order made, with costs.

Ferguson v. Rikley.—H. E. Ross, K.C., for defendant, moved to change venue from Picton to Napanee. A. H. Clute for plaintiff. Enlarged to 21st Inst.

Reinhardt v. Guerdard.—W. G. Thurston, K.C., for plaintiff, moved for administration of H. Guerdard's estate. H. Cassels, K.C., for defendants. Enlarged to Judge in Chambers.

Wells Hardware Co. v. Schreder.—C. M. Garvey, for plaintiff, obtained order amending judgment.

Consolidated Buildings Co. v. Hanbury.—J. P. Walsh, for plaintiff, obtained order on consent discharging mechanics' lien and vacating its pendens without costs.

Re Counter and A.O.U.W.—A. G. F. Lawrence, for society, obtained order for payment of \$690.84 into court, less costs, fixed at \$20, and releasing society from further liability. Usual statutory notice to be served.

Wilson v. Stanbury.—J. P. Walsh, for plaintiff, obtained order on consent discharging lien and vacating its pendens without costs.

Culp v. Culp.—D. Kelly, for plaintiff, obtained order for substitutional service of appointment on defendant.

Lippert v. Jarrett.—J. G. Smith, for plaintiff, moved for further examination of defendant. J. P. McGregor for defendant. enlarged to 20th Inst.

JUDGES' CHAMBERS.

Before Middleton, C.J.

Jess v. City of Hamilton.—H. E. Rose, K.C., for defendant, moved for leave to deliver a jury notice. D. C. Ross for plaintiff. Motion dismissed, with costs to plaintiff.

SINGLE COURT.

Before Meredith, J.

Re Connor and Davidson.—G. Oslor, for trustee, on motion for advice. H. D. Gamble, K.C., for A. W. O'Connor. At request of parties enlarged one week.

Walsh v. McKinney.—H. E. Rose, K.C., for plaintiff, on motion to continue injunction. M. H. Ludwig, K.C., for defendant, stated that parties had agreed that motion should be turned into motion for judgment. Stands until May 27 to get further instructions. Injunction continued meantime.

Miller v. Reid.—L. Macaulay, for defendant, on motion to set aside statement of claim. D. J. Coffey, for plaintiff, asked enlargement. Stands one week. No costs of this day to either party.

Re Balley and Crook.—J. Gilchrist for vendor. G. T. Walsh for purchaser. At request of parties motion stands until May 20 at foot of list. No costs to either party.

Re Murray Estate.—A. E. Knox, for executor, moved for order construing will of Dr. Murray. M. H. Ludwig, K.C., for seven of next of kin. J. M. Godfrey for three of next of kin. H. M. East for Adelaide Gouinlock. J. M. Langstaff for Jeannette Hunt. J. J. Kehoe for James P. Murray. Reserved.

McGuire v. Murtha.—F. Ayleworth, for plaintiff, moved for order continuing injunction and for an injunction against Jas. Murtha. J. W. Pickup for Dominion Bank. J. G. Smith for Henry Murtha. No one for James Murtha. Motion enlarged one week. Injunction continued meantime, and extended to James Murtha as well.

TRIAL COURT.

Before Meredith, C.J.

Peplatt v. Peplatt.—G. C. Kerr, K.C., for plaintiff, moved for a declaration of the court that a valid marriage was not effected or entered into between the parties hereto and annulling the said marriage. No one for defendant.

Judgment: My conclusions are that the Provincial legislation in question is ultra vires, and that therefore this court has not power under it, nor has it power otherwise to consider the matters in question in this action, and that, though it has declaratory powers mentioned, they are quite inapplicable to plaintiff's claim. I accordingly abstain from making any finding upon the facts involved, a thing which would be unwarranted in one having no power to determine them because of want of jurisdiction. Besides, I am precluded from giving effect to my opinion, which is in conflict with a prior well-known judgment of a Judge of co-ordinate jurisdiction, and emphatically the case is of sufficient importance to go further; indeed, the questions involved ought to have gone to a Court of Appeal long ago. This case is accordingly referred to a Divisional Court.

Waterloo Spring Assize.—Before Meredith, C.J.

In the matter of Fishak Crinonlan and twelve other persons, seeking naturalization in Canada under the provisions of the naturalization act. M. A. Secord, K.C., for applicants. No one contra.

Judgment: I cannot think that the act is applicable alike to subjects of countries at enmity and in amity with the British Empire, and so withhold the direction which would entitle the applicants to naturalization certificates. The contention that the Judge cannot concern himself with the question whether the applicant is or is not within the provisions of the act, is too plainly erroneous to require refutation. No Judge has a right to act in any matter until assured of his authority. Is it not inconceivable that the provisions of this act were intended to be applicable to nations at war with the British Empire. If the act be applicable to an alien enemy, it is something like an invitation to spies to provide themselves with the cloak of concealment which its provisions supply, giving to them aid in Canada, and that which is worse, credentials, which in other parts of the Empire are likely to be accepted and relied upon with confidence. I have no difficulty in considering the act in question inapplicable to an alien enemy. Whatever road may be taken, at the journey's end is a door closed against alien enemies; a closed door, with the words "enemies excluded" written plainly above it. Whether the Governor in Council has or has not power to curtail the right to naturalization in Canada, by virtue of the war measures act, it is quite plain that there is no such power to extend it. If no steps to appeal to the Appellate Division or the Supreme Court of Canada, or any other for the same purpose, be taken within 30 days, no direction, such as the 19th section of the act provides for, will be made, and, as the applicants must fall in their present efforts to become naturalized in Canada, but if any such steps be taken the applications will be held in abeyance for a reasonable length of time to obtain the opinion of some court of appeal upon the subject, which, if favorable to the applicants, can then be given effect to by me.

APPELLATE DIVISION.

Before Falconbridge, C.J.; Riddell, J.; Latchford, J.; Kelly, J.

Macdonald v. Devon Lumber Co.—J. H. Fraser, for plaintiff, presented minutes of settlement of defendants' appeal from judgment of County Judge of York of 29th April, 1915. Judgment in terms of consent.

Bowman v. Goldberg.—S. McKenna (Hamilton), for defendant. T. M. Morton (Windsor), for plaintiff. Appeal by defendant from judgment of Lennox, J., of 18th March, 1915.

Action to recover \$3,000 damages for alleged false and malicious statements about plaintiff, leading to plaintiff's arrest and imprisonment until trial, when the case was dismissed and plaintiff discharged. At trial judgment was entered for plaintiff for \$900 and costs.

Appeal argued and dismissed with costs. **Or v. Robertson.**—G. Grant for defendant Hyland, S. Denison, K.C., and A. W. Holmsted for defendant Tyrell. G. L. Smyth for plaintiff.

Appeal by defendant John H. Hyland and by defendant William Tyrell from judgment of Official Referee of 1st May, 1915. Action to recover \$5,758.60 for work and material in connection with the erection of buildings known as 780 and 782 Yonge street. At the trial judgment was

given plaintiff for \$3,670 against defendant Tyrell and for \$1,214.47 against defendant Hyland, with costs.
Appeal argued. Judgment reserved.
Martin v. Vendome.—H. B. White, for plaintiff, moved to amend entry. H. E. Rose, K.C., for defendant.
Entry amended by declaring that costs of appeal and former and new trial to be in discretion of trial Judge, and that the whole record is to be tried.