

Bonter v. Pearce, McGrath v Pearce, Cain v Pearce, Cain et al v Pearce- An appeal in each case by defendant from the judgement of Teetzl, J. of the 30th of July, 1910. These were actions by farmers against defendants, lumbermen for damming back the waters of Beaver Creek et al and flooding plaintiff's lands. At trial judgments were entered for plaintiffs referring actions to some person to be agreed on to ascertain amounts. Judgment: The defendant's appeals in all but the McGrath case should be dismissed with costs, the final clause of the third paragraph of the formal judgment to be amended by erasing all the words from "but this court is unable" to the end.

In the McGrath case the judgment cannot stand; in setting it aside we think we should direct that the case be reopened and the matter disposed of in the least expensive manner possible. If the parties agree the case may be tried by the referee who disposes of the other cases - if not it must go down for trial before a Judge, preferably Mr. Justice Teetzl, if he consent to try it. In either case the evidence already taken may stand subject to the right of either party to adduce the same and (or) other witnesses. The costs of the last trial of this appeal, and the new trial to be in the discretion of the trial tribunal.

Alex. A. McDonald, for Plaintiffs,
E. Gus. Porter, for Defendants.

March 16, 1911

HIGH COURT OF JUSTICE II

His Lordship Mr. Justice Teetzl, of Toronto, held a sitting of the High Court of Justice at the Town Hall, here last week, to assess the damages in the cases of M. Cain vs. Pearce Co., also T. Cain vs. Pearce Co., also R. Bonter vs. Pearce Co. for flooding their lands by penning back the waters of Crowe river and Crowe Lake.

In these cases it was determined by the High Court that the defendants the Pearce Co. had been guilty of flooding the lands of the plaintiffs and at this session of the Court the Judge was to determine the extent of the damages.

When the defendents appealed from the original judgments in the above cases also in the McGrath vs. Pearce Co. case. The Court in order to allow the defendents to contest the plaintiffs' right to damages to lot 9 and lot 8, 3rd. con. Marmora, as the defendents claims an easement to flood lot 8, the Court ordered a new trial. This case also came up for trial.

McMillan vs. Pearce Co. - This case had been on the list for trial for the Fall 1909 assizes, adjourned to the Spring 1910, and owing to the long list at that Court was adjourned over to the Fall assizes 1910, and again adjourned over to the Spring assizes 1911 and further adjourned to be heard at the present sittings at the Village of Marmora, which was done.

His Lordship accompanied by the lawyers and engineers for the plaintiffs and defendents, visited the lands of the plaintiffs on Tuesday and Wednesday of last week, after which the Judge heard evidence on the part of the Litigants as to their various grievances and at the conclusion on Friday evening of last week, reserved judgment in all the cases, the lawyers in the meantime, to file with the Court written arrangements for their respective clients.

A.A. McDonald, Marmora, and H. E. Rose, K.C. of Toronto, appearing for the plaintiffs, and Messrs. Porter and Carnew for the defendents.

These are remarkable cases being the first time in the history of the Province wherein the High Court of Justice ever held a session for the hearing of cases outside of the County Town or in Toronto. No small honor for Marmora.

Col. Lazier, Registrar of the Court, also Sheriff Morrison, of Belleville, were present as officers of the Court, together with Mr. McKeown as Crier.

July 13, 1911