

held by you in escrow, and to be forwarded by you to your branch in London, England, to be so held until April 7th next, when they are to be returned to your branch in Vancouver, to be delivered by them to R. A. Harris, or his order, unless on or before said 7th day of April there be deposited to his credit in your branch in London, England, the respective sums of \$3,122.50, when the deed of sale regarding 76 A on Hunker is to be delivered to Mr. Mangold, or his order. . . . If the said amounts be paid before 7th day of April next, you will please instruct your branch in London to forward same to your agency in Vancouver, to be paid over immediately to the order of Mr. Harris. R. A. Harris, A. J. Mangold." On 7th April, 1899, Mangold wrote the following letter to secretary of the bank in London:—"Referring to the bill of sale held by you on behalf of Mr. R. A. Harris of a part share of the claim 76 A Hunker, and which document is to be handed over to me or my order on payment of \$3,122.50, I now hand you the equivalent of this sum, but, inasmuch as the bill of sale is not accompanied by any documents verifying the title to the property, I must request you to hold the money in escrow, either here or at Vancouver, until the manager of the Pioneer Trading Corporation of Klondike, on behalf of which company I negotiated this option, is satisfied that the title is correct, when the money can be handed over to Mr. Harris in exchange for a properly executed bill of sale, for which the manager's receipt shall be your full and sufficient discharge." Under these circumstances, I find that the \$3,122.50 was not paid to the credit of the plaintiff as required by the letter of the 8th October, 1898, and therefore the plaintiff had no cause of action against the bank, and, as the bill of sale was sent by it to Vancouver, there was no breach of trust. . . . Upon the execution of the letter of the 8th October, 1898, the option to purchase was at an end, and the agreement to buy complete to be carried out, and consummated by the payment six months later of the \$3,122.50, and neither Mangold or the corporation had a right to withdraw, and had no other step been taken, the plaintiff was in a position to sue for specific performance and recover the \$3,122.50. If not, the plaintiff, in order to save his title, would, according to the mining regulations, have been obliged to have gone on to the claim and done representation work during the whole of the six months allowed for payment of the balance of the purchase money; whereas, in fact, the corporation went into possession and