

BOTH OUT OF COURT

Decision in Rosenthal-Conton Case

Certificate of Deposit Is Held by His Lordship to Be Not Negotiable

Mr. Justice Dugas this morning delivered judgment in the case of Rosenthal vs. Conton, which came up for trial last week. The suit was brought by Rosenthal to recover the sum of \$325, the face value of a certificate of deposit issued by the Bank of British North America to Edward Conton. Rosenthal came into possession of the certificate through the failure of a hotel keeper at the Forks named Julian, who was indebted to plaintiff, the latter, according to the evidence adduced at the trial, paying Julian the full cash value of the certificate in order that he (Julian) in closing up his business might be able to pay his labor in full. The payment of the certificate by the bank was afterward stopped by Conton who alleges that when he parted company with the paper to Julian he was drunk, says he does not know how much he borrowed on it and that whatever he did secure was for the purpose of gambling and consequently was an illegal transaction. His lordship's decision is as follows: "The plaintiff is the assignee of a debt alleged to be due to one Phillip M. Julian, to the amount of \$325, for so much loaned and assigned in writing to him. The plea is 'illegal consideration.' The evidence discloses that the defendant was gambling at cards at the hotel kept by Julian and that he borrowed some money, the amount of which cannot be ascertained as the defendant pretends to have been drunk at the time and does not remember what amount he borrowed. Julian is absent so that all that remains, which might, perhaps, permit to fix the amount is a deposit receipt signed by the Bank of British North America to the amount of \$325, endorsed by the defendant to Julian, who, in turn, delivered it to the plaintiff when he made the above assignment. The day after the loan was made the defendant ordered the bank not to pay the amount and the plaintiff now sues to recover the same. The plaintiff herein is in no better position than Julian would have been himself, more particularly when the suit is purely and simply for so much money loaned by Julian and assigned to him. The deposit receipt, even if negotiable, (which it is not) could not be invoked as this action is taken would any ordinary negotiable paper transferred before maturity by a third party in good faith.

HEARD IN CHAMBERS

Motion Day More Lively Than Usual

Brophy and Harris Cases to Be Heard Tomorrow Unless Continuance is Granted.

The list of motions coming up in chambers today was somewhat longer than usual. The first, following the rendering of judgment in Rosenthal vs. Conton, was an application for the appointment of a receiver for the personal property involved in the case of Trump vs. Levin, the parties to the action being residents of Whitehorse. It appeared from the argument that plaintiff and defendant were formerly partners engaged in business in Bennett. They decided to open a store in Whitehorse and Levin went there for that purpose. Troubles arose which culminated in a criminal action. Then it is alleged Trump

took possession of the place in his own name by force and was later ejected by Levin, he also using force. Levin is now in jail at Whitehorse and the receiver for the personal property is asked for in order that it may not be dissipated pending the bringing of the action to trial. His lordship named Sergeant John A. Macdonald as receiver.

Taylor vs. Johansson, an application to amend, stands one week. In Marchbank vs. McKay Bros. an application was made for an order confirming the report of the referee. It was stated the report had been made February 28 and the notice of motion filed March 6, the referee finding in favor of defendant in the sum of \$1266.07. The confirmation of the report was objected to by counsel for plaintiff and after argument it was agreed to allow the matter to stand one week, plaintiff waiving all objections to technicalities.

Cameron vs. McIntosh came up on an application for an injunction and the appointment of a receiver. The facts of the case as stated by counsel for plaintiff are that plaintiff is the owner of 7b above on Last Chance, a 22-foot fraction. Last November both parties to the suit agreed to work the claim, sharing alike in the expense and profits. Work was begun November 1 and continued to February 18, when defendant left the claim. March 1, it is alleged, McIntosh returned to the claim with another man, took forcible possession of the cabin he and his former partner had occupied and started work again, being stopped a few days later by an interim injunction that was secured. Plaintiff insists that if any partnership agreement existed at all it was merely verbal and not registered and in an amendment to the statement of claim filed asks that such partnership be dissolved and that he (plaintiff) be appointed receiver. The application was resisted by defendant, who insisted upon the partnership being in existence. He also set out the fact that the claim being so small it would not stand the appointment of a paid receiver, and, in fact, McIntosh expressed a willingness to go back to work at once with his old partner, and would work either "top or bottom." Decision reserved until tomorrow.

Raymond et al vs. Faulkner was an application for an order asking for the continuance of the action in the name of the public administrator, one of the plaintiffs being deceased.

Williams vs. Burke was an application for the payment out of court of certain costs. Stands a few days.

In the matter of the contempt of C. M. Woodworth his lordship though not rendering judgment intimated to the defendant that he intended holding the action to be not one of criminal nature, but should consider it purely as a contempt of court, an infraction of the court's dignity by an officer of the court.

The criminal cases against Brophy and Harris will come up tomorrow morning. It is thought counsel for Brophy will make a strong argument for a continuance, though at noon today the crown prosecutor had received no intimation of such intention.

Search for Anarchists.

Madrid, Feb. 21.—According to this morning's advices from Barcelona the situation there is improving, though it is still threatening. An effort will be made today to resume ordinary avocations.

The most stringent measures have been prepared to protect traffic and business. The strikers have few rifles, but are well supplied with revolvers and daggers. The search of suspected houses continues, resulting in the arrest of large numbers of anarchists and revolutionists of all kinds who are considered to be the prime movers in the troubles. The cosmopolitan character of Barcelona makes it a resort for representatives of all the revolutionary elements in Europe, and the ranks of the malcontent workmen have been swelled by French and other foreign political agitators. The Republicans are busy among the troops, urging them not to use their arms against their own class in defense of plutocrats.

The working people of Madrid favor the strikers.

Martial law has been proclaimed at Tarragona. The strike is spreading in the Llobregat and Castona valleys. There is a general cessation of work at Castellen de la Plana and Grave, and much excitement prevails at Batea. Forces of gendarmes have been dispatched to those places.

Delegates from the labor societies of Saragossa have visited the governor and declared themselves opposed to the strike.

Long Resigns

Washington, March 10.—Secretary of the Navy Long has resigned. Congressman William H. Moody of Massachusetts has been appointed to the position.

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THRESHING OLD STRAW

Mayor and Fire Committee in Session

Investigating Charges Preferred Some Time Ago Against Chief Stewart.

The fire committee of the city council is holding a star chamber session in the Board of Trade room this afternoon, those present being Mayor Macaulay, the members of the fire committee, Aldermen Macdonald, Murphy, and Norquay, Fire Chief Stewart and the latter's attorney, William Walsh.

The object of the meeting is the investigation of a series of charges preferred by the members of the fire department against the chief some months ago, the charges then being filed with the governor and Yukon council, where no decisive action was taken other than to partly smooth things over, in which highly unsatisfactory way, to all concerned they have since remained. As a heritage from the Yukon council to the city council the charges were handed down and now, as when originally filed, they charge the chief with actions unbecoming his position, with an over-bearing and repugnant demeanor towards his subordinates, with removing barrels which were the property of the department, with keeping a race horse in the way of speedy action in case of an alarm, with incompetency, with not being on duty when needed and with various, divers and sundry other failings on the part of the chief and on which the firemen are a unit in demanding his removal.

These charges are being investigated today and the outcome of the committee's deliberations will be awaited with considerable interest. The firemen are satisfied that the outcome of the investigation will be that the chief will be asked to tender his resignation at once as they claim they can substantiate every charge on the list. On the other hand Chief Stewart will endeavor, through his attorney, to prove the charges groundless, and that they are the result of petty spite and envy. In the meantime every citizen of Dawson should consider himself a committee of one to inspect his own files.

Calm is Restored.

Madrid, Feb. 21.—Official dispatches received here assert that calm has been restored at Barcelona, Saragossa and Valencia; but newspaper telegrams report that the situation is still serious. The rioters at Barcelona are devoting their energies to preventing food supplies from entering the town. In one such case the troops escorting a convoy were obliged to fire on the rioters, several of whom were killed or wounded. A serious conflict also occurred today in the centre of the town. The orders of the captain general to persuade the dock laborers to resume work have failed and the entire trade of Barcelona is at a standstill. Revolutionary proclamations are still being circulated there.

The exciting debate in the chamber of deputies here on the interpellation yesterday of Senor Robert, deputy from the province of Catalonia, in regard to the occurrences at Barcelona was renewed today. Senor Romero Robledo asked for information regarding the matter of the foreign

consuls at Barcelona and when the secretary for the interior, Senor Gonzales, professed his ignorance of this meeting and declared the interpellation to be inopportune the deputies of the opposition displayed the greatest impatience. Gen. Weyler, the minister of war, announced in the chamber that he had decided upon energetic steps to suppress the disorders, but that some of the news sent by correspondents was exaggerated. Senor Meucheta, manager of the Diario, of Barcelona, who arrived from Barcelona this morning, spoke in defense of the correspondents, who, he said, always told the truth, while the government deceived the queen and the country. Senor Meucheta said he considered that the publication of false news should be punished by courtmartial and declared Barcelona to be in a state of continued alarm.

Senor Gonzalez declared that the censor had stopped the telegrams describing the situation at Barcelona. Continuing his remarks, the manager of the Diario reiterated that the Diario had dealt with press messages in a manner which most reactionary governments would not countenance and said that in many cases the addressees of the messages were not informed that their telegrams had been stopped.

U. S. CONSUL H. D. SAYLOR

Makes His Initial Visit to Creeks

And is Surprised at the Methods Employed in Extracting Yellow Metal.

United States Consul Saylor returned this morning from a three day's visit to the creeks, the trip covering Bonanza and Eldorado.

He went in company with Mr. M. P. Thompson of 43 above Bonanza, and during his stay made a very careful inspection of the workings on the creeks named. "I was greatly surprised," said Mr. Saylor today, "to see the vast amount of work which has been done on Bonanza and Eldorado creeks, in the past, and was even more astonished at the preparations which are now being made for future operations.

"It appears to me that marvels have been accomplished by the miners of the district working under extreme difficult conditions. This was illustrated to me very forcibly by comparing the old system of working with the means which are generally employed at the present time. I noticed on one claim a man laboriously hauling a bucket to the surface by means of a windlass, while on the next claim was a complete steam thawing and hoisting outfit and buckets filled with dirt were carried to the dump and automatically emptied. This contrast of the old and new methods of working furnished considerable food for reflection. There is evolution in mining the same as in many other things."

Overdue Steamer

Special to the Daily Nugget. St. John, March 10.—Anxiety is felt for the Allan liner Huronian, which was coming from Glasgow to load Canadian hay for South Africa. She is several days overdue. Special power of attorney forms for sale at the Nugget office.

STRIKE END IS NEAR

Among Newfoundland Sealing Crews.

Hopes Are Expressed That All Differences May Be Adjusted This Evening.

St. John, Nfld., March 10.—Hopes are expressed this afternoon that the strike of the sealing crews may be ended by this evening, so that the men need not be left on the streets all night. Three sealing steamers sailed from Cape Ray with full crews at noon today.

A Battle Story.

London, Feb. 21.—Dispatches received from Barcelona and Madrid and from various frontier towns in close touch with the scenes of the disturbances in Spain quite discredit the sensational dispatch to the Exchange Telegraph Company, saying that a fierce battle had been fought between the troops and rioters in a suburb of Barcelona, that the artillery raked street after street, and that 500 people were reported to have been killed or wounded on both sides.

As a matter of fact, up to last evening the total number of persons killed throughout the disturbances was only forty.

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PAGES

FRIENDLY DECLARATIONS

By the Foreign Secretary

and English Ways Remain Very Friends.

The Daily Nugget, March 11.—Baron Russian secretary of state in the diet y announcement to the effect that granted per to the Boer camps. connection with the statement in question "Engl on two nation together by the again find a The disaster the Methuen m sympathy.

Freight Rates to the Daily Nugget, March 11.—The W. P. R. freight rates

Hurricane at the Daily Nugget, March 11.—The storm was dan slow down sidewalks.

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