

ROEDDE VS. NEWS-ADVERTISER.

Judgment Rendered by Mr. Justice Crease Dissolving Partnership and Appointing Receiver.

Review of the Law and the Evidence Submitted in the Case.

(From the Vancouver World.) Hon Mr. Justice Crease rendered the following judgment this morning in the case of Roedde v. the News-Advertiser:

After a careful consideration of the numerous cases cited and a perusal of the evidence, and after hearing the able evidence of the counsel at the trial, I am of the opinion that the elements necessary to constitute a partnership exist in the case of the agreement which has formed the subject of contention in this suit. It is a partnership for five years, subject to be terminated by effluxion of time, six months' notice from the News-Advertiser company, or breach of one or more of the conditions on which its continued existence depends.

A strong and persistent effort was made on the part of the plaintiff to establish a representation or fraud as a ground of rescission, chiefly from inference, from some expressions in the statement of claim. But there is no action of law more clearly established than that fraud is an allegation which cannot be inferred, but must be especially pleaded, and the pleadings must show in what particulars the fraud is charged, to enable the party to know with reasonable certainty what he has to meet and it must be completely proved by the party who brings the charge. There was no such pleading here and I am bound to say that there was nothing in the evidence, which even pointed either to fraud or misrepresentation having been used to procure the contract. Indeed, it was all fair and above board, and it was clearly proved that the plaintiff and defendant both entered into the contract with full knowledge, mutual consent and good-will, and with full appreciation of its purport, under legal advice of the highest character, and thoroughly acceptable to both parties.

When, however, we come to examine the evidence, I find that the agreement of the kind of November, 1892, creating a partnership between the plaintiff and the defendant, which is set forth in full in the statement of defence, has been broken in several material points, not by the plaintiff, who has steadily and faithfully carried out the portion binding on him, but by the defendant in the following particulars. For the defendant has not yet paid the \$3,150, which he was to pay to the plaintiff as the difference between the value of his plant and stock and the one-fourth value of the combined plant and stock, at the time and in the manner prescribed by the agreement, viz. one-half on March 1, 1893, and the balance on June 1, 1893. As so much of it (\$3,000) has been paid by him to the plaintiff, though at irregular times, and only after several urgent demands, and that terms has no doubt been broken, if it stood alone it would be unreasonable on that account alone to declare a dissolution. But on further inquiry from the evidence I find that the defendant, although repeatedly requested, orally and by letter, has systematically avoided giving plaintiff the regular balances, which are so necessary for the existence of any business confidence between partners, and are an express term and condition of the agreement.

I also find, and it is admitted in the chief evidence for the defendant, that the business has all along been producing a profit; and plaintiff, who is confessedly thoroughly conversant with the book-binding business in all its details, and was to be foreman and manager of it, avers in his evidence, from private accounts he has made up of it during its continuance, that it must have been producing a profit of over \$2,000 (estimated \$2,500) from November, 1892, to December, 1893, and defendant's chief witness admits a profit of over \$1,000; the plaintiff, who estimates his share at \$825, has not received one farthing of it notwithstanding several requests, in direct contravention and violation of the terms of agreement. I find also from the evidence that the plaintiff has not been given access to the books and accounts of the partnership, as expressly stipulated by the agreement, at such reasonable times as he might require to inspect them. He asked for it, but it had been denied him. The only amount he has regularly paid is his weekly wage of \$25, without which the business could not have gone on. Mr. Cotton, president and manager of the News-Advertiser company, presumably under the impression that an incorporated company for carrying on a newspaper and cognate business, the company was ultra vires in carrying on a book-binding business in connection with it, denied that the plaintiff was a partner at all with the defendant. But on reference to the act of incorporation, that business was found to be well within the purview of the act—and we had the singular spectacle of the defendant out of court denying the partnership and its counsel in court stoutly maintaining its existence. I also find that the accounts of the partnership were not properly separated, so as to properly sever the amounts rightly due by the book-binding from those rightly chargeable to the printing department.

The principal was not examined and the evidence of the secretary of the company was evasive, non-committal and unsatisfactory, showing clearly in the defendant company, a chronic disposition to account. There was consequently a perpetual distrust and want of confidence on the part of the plaintiff at this perpetual breach of important portions of their compact, and naturally a constant discord between them, not mere quarrels and disagreements, which at times barely arise between friends, but caused by the conduct, or rather the misconduct of the defendant, in violating the terms of the contract, excluding the plaintiff from ready access to the partnership account and by other unrighteous acts in derogation of their contract.

(Vide Wilson vs. Greenwood, J. S. W. 481; Woodman vs. Whitcomb, J. S. W. 580; Marshall vs. Coleman, J. S. W. 266; Baxter vs. West, 28 L. J. ch. 169.) Under these circumstances plaintiff applies for a rescission of contract, but, considering the good faith with which it was contracted and what has been done so far, though so far short of the agreement by the defendant, rescission does not appear to be the most suitable remedy. The proper remedy, therefore, and the only one I can now adopt is: To declare the dissolution of the partnership. I, therefore, adjudge

and decree that the said partnership be dissolved on the terms set forth in the plaintiff's statement of claim, with costs, and for the purposes aforesaid, let all necessary references and directions be made and accounts taken. I hereby appoint John R. Burton, of the City of Vancouver, receiver of the said partnership and assets thereof. HENRY P. FELLEW CREASE, J.

CHINESE IN SUNDAY SCHOOLS.

CHICAGO, Feb. 22.—The anti-Chinese Sunday School society crusade in Chicago have appointed Dr. J. W. Carr president and C. W. Kulnetop, secretary. About forty were present at the meeting on Wednesday night, and these resolutions were passed: "Whereas the representatives of the Mongolian race in Chicago are as a rule recruited from the lowest and most degraded classes in China, and whereas it has become a matter of common occurrence for young unmarried women to place themselves in the way of contaminating influences by giving their services to certain Sunday schools where they are required to be in close contact with members of the Mongolian race; therefore be it resolved that we adopt the following platform: 1. The Chinese in Chicago should be converted and educated. 2. Our young women should be protected. 3. The Chinese should be brought in contact only with men and matrons. 4. No church should allow the use of any part of its building to Chinese school classes in which young unmarried women act as teachers."

It is the intention of the society to hold a meeting in one of the churches and invite the representatives of the Chinese classes to meet them and discuss the best mode of reaching the Chinese through some other medium than the young women of the church. The movement is attracting much attention even among the Chinese themselves, and to-day Ching Jone, of Wabash avenue, signified his intention of withdrawing from the P. ephertian Sunday school class. He paid the teachers many compliments, but said, "Hong Ching has no more lady teacher, so no more Ching Jone." Ching Jone scorns Christianity when taught by men.

FROM APIA, SAMOA.

SAN FRANCISCO, Feb. 22.—The schooner Sohnauer reached here to-day from Apia, via Gray's Harbor, after a passage of sixty-four days and a half. When the vessel was off Gray's Harbor a distance of thirty-six miles, on February 14, a heavy southeast gale was encountered. The Sohnauer was thrown on her beam ends, and to add to the difficulty sprang a leak. Efforts were made to prevent serious damage, but it was impossible to stop the flow of water, and in a short time there was seven feet of water in the hold. On deck was 140,000 feet of lumber. The storm raged furiously, the vessel failed to right itself, and orders to jettison the cargo were given. At once the lashings were cut and the timber floated off. The effect was at once noticeable, as the heavy weight disappeared, and the vessel righted. Besides lumber the vessel brings considerable wreckage from U. S. vessels driven ashore at Apia a few years ago during a heavy storm.

NEVADA'S BLOCKADE ENDED.

RENO, Nev., Feb. 22.—At 5 o'clock this morning fifty men of the Reno guard and Reno lodge, No. 19, I. O. O. F., left for the State line to assist in the search for the missing men buried in the snowslide. Edie, the only one rescued, is reported to be moving as resting easy. The slide that buried them in a narrow canyon and over a mile in length. The snow is from 25 to 40 feet deep at the lower end of the slide. The blockade was raised early this morning. The first train from the west in three days arrived here at 8:30 this morning, followed in an hour by another train, both bringing mail and passengers.

Many Millions. ST. LOUIS, Mo., Feb. 21.—A suit has been filed in the circuit court this afternoon which will be the greatest sensation in legal and real estate circles that St. Louis has experienced for years. The action is brought by the Bocquette property company against Mary E. Patterson and it is the first of a series of suits which will involve the titles to property aggregating in value nearly \$50,000,000. Over forty heirs are interested in the coming litigation, and in all, sixty suits will be brought.

HAMILTON, Feb. 21.—The championship hockey match resulted, Osgoode Hall, Toronto, 10; Hamilton, 5.

Hood's Cured After Others Failed Scrofula in the Neck—Bunches Gone Now.



Blanche Atwood, Sangerville, Maine. "C. L. Hood & Co., Lowell, Mass.: 'Gentlemen—I feel that I cannot say enough in favor of Hood's Sarsaparilla. For five years I have been troubled with scrofula in my neck and throat. Several kinds of medicines which I tried did not do me any good, and when I commenced to take Hood's Sarsaparilla there were large bunches on my neck so sore that I could not bear the slightest touch. When I had taken one bottle of this medicine, the soreness had gone, and before I had finished the second bottle the bunches had entirely disappeared.' BLANCHE ATWOOD, Sangerville, Maine. N. B. If you decide to take Hood's Sarsaparilla do not be induced to buy any other.

Hood's Pills cure constipation by restoring the peristaltic action of the alimentary canal.

THE "FAIRY'S" ILL LUCK.

Captured on Her Very First Trip With Contraband Chinese From Victoria.

When Escape Was Cut Off the Owners Attempted to Blow Up the Steamer.

A Port Townsend telegram of Wednesday to the Tacoma Ledger gives the following particulars of the Customs' seizure at Admiralty Head, briefly referred to in the local columns of the COLONIST yesterday: "One of the most important captures recorded in the history of the Puget Sound customs district was made Wednesday morning at Admiralty Head, opposite Port Townsend, by Lieutenant West, of the revenue marine service. It was the result of a systematic patrol of the waters of the lower Sound, instituted last evening by Collector Saunders and Lieutenant West, and it netted the government eight contraband Chinese and a small, new steamer, worth about \$3,500. Collector Saunders had been on the lookout for this craft for the past week. She is supposed to have been built for a newly-organized smuggling ring that has been in the water for some time, and is behind it, and this was the first of three swift steamers which it was planned to build. Ten days ago the collector received information that the steamer had set out from Tacoma, where she had just fitted out with machinery, ostensibly on her first trip. No name appeared on her as required by the regulations, and her actions were suspicious in other particulars, so that when the collector received information that she had disappeared in the evening from the harbor, he was at once alerted. He and his men were notified to keep a sharp lookout for her. Collector Saunders was therefore not surprised yesterday afternoon when he received the 'tip' from Victoria to the effect that the 'Fairy' would set out in the evening from that port with a cargo of Chinese. He at once called Lieutenant West and Chief Inspector Delaney into conference and no time was lost in planning the capture of the little steamer. "The outer Wolcott was sent to guard Deception Pass, to prevent the Fairy from taking the inside route. Then the steamers

Wildwood and Alert were chartered, and Collector Saunders, Deputy Barthrop and Inspectors Delaney and O'Brien went out in them. They took their stations in such a way as to guard the entrance to the outside water from the city of Vancouver, and the Puget Sound flour mill for a launch which he recently built, and it is supposed that this is the launch Fairy. "At 4 o'clock in the morning the Wildwood and the Alert returned to this port, leaving the Wolcott and Black Pup on guard. It was 6 o'clock when Lieutenant West, who was leisurely crossing over from Marrowstone point to Admiralty head in the Black Pup, sighted a small white steamer just off Admiralty Head on the island and he bore down on her. In a few minutes he saw his suspect crowding on steam, attempting to leave the Black Pup behind. West had the advantage of a straight cut ahead, while the other fellows were in a deep ooze and were obliged to travel a much greater distance. West gave the following orders to the crew: 'Stand by to make a good sport.' He did so, making a good sport. The men on the Fairy evidently noted this, for they suddenly stopped when nearly opposite Lagoon point and as quickly as possible headed back for Admiralty Head. But again West had the same advantage as before and the Black Pup bore down on the little steamer ahead. "It was now only a question of a few minutes and the suspects suddenly headed direct for the shore. When near land three men were seen to shove a skiff into the water and, after turning off steam jump into it and make for land. The steamer was then overhauled, and the engine at once discovered the plan of the men to blow up the steamer, the boilers being empty and 180 pounds of steam on. Eight green looking Chinese were found huddled together on the steamer, and Lieutenant West returned to town with his capture. No papers of registry were found on the steamer as required by the statutes, and this alone makes her liable to seizure, as she is more than five tons burden. She will be confiscated and made to do service for the Government in the future, and will be a valuable addition to the present patrol fleet."

It is thought there were about twenty-two more Chinese on the launch who escaped with the white persons. These are probably on Whidly Island, and the customs officers are now looking for them. It is supposed that the Fairy was in command of one Captain Ryan. Frank Goodrich and Captain Ryan are known to have left Tacoma on the 12th in a launch similar to the one captured. When she left Tacoma she had no name, and was boarded up on the outside. She also had patent curtains

placed over her windows on the inside of the cabin. Captain Goodrich was for some time negotiating with the engineer of the Puget Sound flour mill for a launch which he recently built, and it is supposed that this is the launch Fairy.

CENTRAL AMERICA.

WASHINGTON, Feb. 23.—An extradition treaty between this country and Costa Rica will be sent to the Senate soon. A draft of the proposed treaty has been prepared and practically agreed upon. One or two provisions still await settlement, but it is supposed that the next mail from Costa Rica will bring news of the approval of the Costa Rican authorities of the changes suggested by the Secretary of State. The new treaty will make extraditable from either country the following crimes: Murder, including assassination, poisoning and infanticide; kidnapping, piracy, robbery, burglary, robbery, forgery, counterfeiting and embezzlement. When the Costa Rican authorities surrendered embezzler Francis H. Weeks, of New York, Secretary Gresham agreed to exchange a treaty which would include the crime of which Weeks was guilty, and the negotiations now in progress are in accordance with this promise.

PANAMA, Colombia, Feb. 23.—It is said here that M. Mange, agent for the liquidation of the Panama Canal Co., will assume the superintendency of the Panama railway in place of Mr. Rives on March 1. Panama and Colon will gain much by the change. The Spanish consul here sent back to Havana on Wednesday 27 immigrants, who had been deceived into coming to this country by the false representations of an immigration agent.

CHARGES AGAINST THE PEERS.

LONDON, Feb. 23.—The Daily News, Gladstonian, enumerates in a leader this morning thirteen charges against the House of Lords. All these concern the mutilation or rejection of reform proposals during the present Parliamentary session. "The rapid growth of the popular agitation against the House of Lords," it comments, "is evidenced by daily meetings. We are now face to face with one of the very gravest problems of our constitutional history. This odious institution of hereditary legislators cannot possibly continue to have a place in free governments." The News also says that Lord Salisbury will advise the Lords not to insist on any critical amendments of the Pariah Conscience Bill, except those relating to the affairs of the various charities.

HAWAIIAN RE. Findings of the U. S. Committee on Foreign Relations.

A Majority Report and a Minority Statement. WASHINGTON, Feb. 23.—The committee on Foreign Relations of the U. S. Senate this morning, presented a majority report and a minority statement regarding Hawaiian revolution. The report is a lengthy document, and is a comprehensive review of the facts and precedents justifying the Hawaiian revolution. The report is a lengthy document, and is a comprehensive review of the facts and precedents justifying the Hawaiian revolution. The report is a lengthy document, and is a comprehensive review of the facts and precedents justifying the Hawaiian revolution.

PARIS, Feb. 23.—The police court officials are receiving violent letters, threatening in the name of anarchism to avenge the death of August Vaillant and the prosecution of Emil Henri. M. Roilier was informed today by letter that he had been a marked man ever since he helped send Vaillant to the guillotine, and his fate had been finally sealed by his conduct in the case of Henri. "You will be the first to go," was the last sentence of the letter. Some sensation has been caused by the appearance of a Communist manifesto, sent out by the socialist deputies in view of the impending municipal elections. An infernal machine filled with blasting powder and with a time fuse attached to it was found last evening at the door of the house occupied by the President of the Civil court in Bâle. A dozen sham bombs were examined by the municipal laboratory to-day. The frontier police at Muelhausen in Alsace, arrested to-day two Anarchists who had been expelled from Switzerland. Both the German and French police are keeping a close watch for Anarchists crossing the Swiss frontier.

POPE LEO XIII.

ROME, Feb. 21.—The Pope held a consultation yesterday with Father Knapp, the Bavarian priest who originated a well known water cure and came to Rome upon his Holiness' invitation. The Sovereign Pontiff explained to the priest the state of his health generally and spoke particularly of the intestinal troubles from which he has suffered. Father Knapp assured His Holiness that his ailments were not serious and predicted for him several years more life. He advised him to try cold water bathing and this morning, by order of the Pope, Father Knapp made his first trial of the treatment.

E. M. JOHNSON

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- 120 Head (more or less) Cows, Steers, 2 year olds, etc., etc., (about 60 or more to calve this spring), 1 pedigree Hereford Bull (rising 3 years. (In foal to a good stallion), 1 Horse, Pigs, Chickens, etc.
7 Mares
Ploughs, Harrows, Reaper, Fanning Mill, Wagon, Sleds and usual Farm Implements.
Double Harness, Chain Harness, Bull Chains, Saddles (ladies' and gent's), Bridles, etc.
Blacksmiths' Bellows, Anvil and Tools and Carpenters' Tools.
9-Room House (single roofed; Stable for 10 horses, with hay loft above; Stone Roothouse, Store Buildings, Dairy, Cow Sheds, etc., etc.
4 Miles (about) Standing Fences, in good order; Corrals, 10 miles barbed wire and staples; about 2,500 Posts on the ground, ready for use, etc., etc.
Small Lot Household Furniture, Stove and Pipes, Crookery, etc., etc.
This Property is within easy distance of many of the most important Gold, Silver and Coal Mines in West Kootenay. The population of this district will increase this year by at least 10,000; the area of farm land produce will find a ready and lucrative market. The soil is the best bottom land, and the locality is one of the few places in the Province where so large a piece of good farm land can be found in one block. A river runs through the property, and rainbow trout are plentiful and afford capital sport. Deer abound in considerable numbers. Bear, Wolf, Coyote and other large game are to be found in the hills. There are two creeks recorded and belonging to the estate, one flows all the year round. Limestone and brick clay are to be had in the valley.

The Gattle are well bred; a much larger herd could be farmed with the place. The bunch grass on the hills in the vicinity covers many thousands of acres, and is available to the few land owners in the valleys. All buildings and fences about the farm are a good order, and farming operations can be gone on with at once; about 180 acres of ploughing have been so far provided for this year's work.
The Climate is not severe, the land being about 1,100 feet above sea level; the station was for many years the winter quarters of the H. B. Co.'s pack trains. There is a weekly express in and out. Goods and supplies at wholesale can be procured on order and delivered in 48 hours.
The Title is by grant from the Crown, and is free of all encumbrances. Immediate possession can be given.
Important Railway works are now in progress within moderate distance, and two railway lines have been run to pass close to or through the estate, which can be reached in the spring in three days' journey from Victoria.
The South West Kootenay District, British Columbia, from the actual ore products of the mines this winter, is destined in the next year or two to become one of the richest and most important mineral centres in the world. Statistics show, that although the district is in its primary stage, the mines have developed ore veins rich enough to warrant the investment of over million dollars. When these mines come to be worked systematically, there will be an
Influx of Population, which will require beef and farm produce in large quantities. The limited quantity of really good farm land in the district to supply these requirements makes this
A BONANZA!
To any person or corporation having the capital and knowledge necessary to develop and work this estate. A store, hotel and blacksmith shop could be run in connection with the farm.

P. O. BOX 188. TELEPHONE NO. 74.

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BAYARD DISCONTENT

New York, Feb. 26.—The Massachusetts press prints a circumstantial account of a meeting in London, asserting that U. S. Minister Bayard is anxious to return home. It is stated that the various functions in which he has participated, on account of his official position, are very objectionable to him as he has never been very fond of publicity. It is recalled that he has a peculiar aversion to social life when in London. It is also said that a telegram asserts that Mr. Bayard has already sent a communication to Cleveland which has been published in the exact tenor of these letters is not known. The Express publishes in connection with a Washington special in which Gray, of Delaware, pronounces Bayard untrue, but gives no ground for the statement.

NORMAN L. MUNRO.

New York, Feb. 26.—Norman L. Munro, the well-known publisher, who died yesterday night, had been complaining some time of terrible cramps in his side, and it was decided after consultation of the physician that he was suffering from appendicitis, and an operation was performed. The operation was performed yesterday afternoon. Shortly before 3 o'clock Munro became delirious; three hours he was in extreme pain, and he passed away at 6:20 p.m. in his wife's arms. The cause of the gangrenous growth, which had so tainted the patient's blood, was absolutely no chance for his recovery. Mr. Munro's eleven-year-old son, Langenshaw, is at Dobbs' Ferry, N. Y., and is thought to be in good stead. Youth will serve him. Mr. Munro's recovery is looked for. Mr. Munro in Millbrook, N. S., 50 years ago.

INSURGENT STEAMER SU

New York, Feb. 26.—A special telegram to the Herald says a steamer has been received here announcing that the insurgent steamer Jupiter was sunk on Thursday night by the batteries of Niotheroy. It is reported that four steamers and two boats of President Peizo's army were on the same day. The destruction of this fleet is not known. A special from Rio Janeiro to the Herald says the government battery, Madame opened fire on the rebel steamer Mercurio on Saturday morning, and the shots from the fort struck the