

GOVERNMENT SUED.

Koksilah Quarry Company Claim Damages for a Breach of Contract. Suit Arises From Rejection of Stone for the New Parliament Buildings.

Koksilah Quarry Co. vs. the Queen, a case of much general interest and involving a large sum of money, was commenced before Mr. Justice Walkem this morning.

The defence set up by the attorney-general in behalf of the province is that they never contracted with the company at all, but rather that the late Frederick Adams, the contractor for the new parliament buildings, was the party who made the contract on his own behalf.

VERDICT FOR HARRIS.

Special Jury Gives a Verdict for \$19,377 Against Messrs. Dunsmuir. The special jury in the case of Lowenberg, Harris & Co. vs. Dunsmuir last evening brought in their verdict, but judgment will not be given until argument is heard on the application for a non-suit on the part of the defendant.

DR. JACOBI'S CREAM BAKING POWDER. Awarded Highest Honors—World's Fair. A pure Grape Cream of Tartar Powder. For 40 Years the Standard.

WARRIMOO ARRIVES

The Canadian-Australian Liner Makes a Fast Trip Across the Pacific. Steamers Belonging to the Nippon Yusen Kaisha Line to Call at Victoria.

LIST OF TEACHERS

The Board of School Trustees Re-arrange Staff for the Ensuing Year. Several New Teachers Appointed to Fill Vacancies Caused by Resignations.

Last evening the Board of School Trustees met for the purpose of re-arranging the teaching staff of the public schools. This was made necessary by the fact that Miss Arowsmith had resigned her position on the staff of the Girls' Central School and Miss Carmichael her position on the staff of the South Park school.

Among the passengers were Captain MacArthur, the ship's Scottish Dales, which was wrecked off the Cape Islands two months ago. He is on his way to Liverpool.

The Alaskan excursion steamer Queen, Captain Carroll, arrived from the north at 8 o'clock this morning and left again for the Sound at eleven.

The agent of the Nippon Yusen Kaisha line of steamers was in the city yesterday and interviewed business men regarding the possibilities of securing trade for the line between Victoria and the Orient.

The Umaitla arrived from San Francisco last evening with 133 passengers on board, 34 of whom were for Victoria. Her freight included 133 tons for this port.

The British ship, Corolla, Captain Fraser, now loading lumber at Moodyville for Fremantle, will also carry ten thousand feet of sugar pine, taken from the forest near the mouth of the Lorne river.

Yesterday afternoon the C. P. N. Co. received a telegram which stated that their new steamer Des had called at Coronel, near Valparaiso, on the 12th instant. She will probably arrive here next week.

The Northern Pacific Steamship Co. following the lead of the Southern trans-Pacific steamship lines, has ad-

WARRIMOO ARRIVES

The current issue of the British Columbia Gazette contains notices of incorporation of several companies organized to develop mining claims in the province. The B. C. Gold Mining Company has a capital stock of \$1,000,000.

ELECTION PROTESTS

A Petition Against the Return of Messrs Earle and Prior in Victoria. The Seats of Mr. McInnes and Mr. Maxwell Attacked by the Conservatives.

Election petitions were all the rage this morning in the office of the registrar of the supreme court, where no less than three petitions were filed against the returns of members elected on the 23rd of June last.

The petition recites all the allegations both possible and probable—such as buying votes with money, offers of employment, procuring of loans for voters, treating, undue influence, and paying travelling expenses and buying tickets for voters.

Next came into the registrar's office representatives from the office of Messrs. Drake, Jackson & Helmecken, with a petition against a Liberal, Mr. W. B. McInnes, of Nanaimo.

It was also stated around town today that Mr. Bostock's election had been protested, but nothing was filed in the registry office here against him, although a petition may have been filed at Kamloops.

A largely attended meeting of the Liberal Association was held in Fairbairn hall last evening. After routine business, the following officers were elected for the ensuing year:

Honorary President—Hon. A. N. Richards (re-elected). President—Mr. Geo. Riley. First Vice-president—Mr. E. V. Bodwell. Second Vice-president—Mr. A. E. Scuffe.

Executive Committee—Messrs. Archer Martin, A. H. Marchant, Geo. E. Powell, A. H. Humfrey, Frank Higgins, M. J. Conlin, D. Cartmel, A. Macmillan, W. J. Dwyer, Major Nicholas, F. B. Gregory, L. P. Duff, A. A. Davidson and Geo. Sangster representing the city, and Lake District, S. Field, Metchoos, J. Sluzgett, Saanich, and Isaac Somers, Cedar Hill, representing the rural districts.

Highest of all in Leavening Power.—Latest U.S. Gov't Report

Jal Baking Powder. ABSOLUTELY PURE. ORDER DISCHARGED. Judgment Given by the Chief Justice in the Case of Elworthy vs. the City.

Chief Justice Davie yesterday afternoon delivered judgment in the case of Elworthy vs. Corporation, discharging the injunction in so far as it refers to material and labor supplied. The judgment follows:

"This is an action brought by the plaintiff as a ratepayer of the corporation to restrain the mayor and aldermen from paying any moneys of the corporation to any person or persons for and in respect of work done on, or material supplied for or in connection with the erection of a pile bridge at Point Ellice, in the city of Victoria, and the present motion is an application on behalf of the plaintiff (upon notice) to continue until the hearing an injunction granted by me on the 28th instant restraining the defendants until a time which is now past from paying any moneys of the corporation to any persons in respect of work or materials on the Point Ellice bridge, or from paying to any person the sum of \$5,200 appropriated by the resolution of the municipal council on the 24th June, 1896, or in any part thereof.

"As the matter is one of much urgency, I shall at once state the conclusions which the limited time at my disposal has enabled me to arrive at. 'The facts giving rise to the proceeding, as detailed in the affidavits, show that a bridge over a portion of Victoria harbor, between Work street and the Indian reserve, Victoria West, and over which a large traffic passed daily, collapsed on the 28th May last by the breaking away of one of the spans, and that since the collapse of the bridge, until recently when the E. & N. railway bridge was by arrangement with the company brought into requisition, it has been impossible to take vehicles between the city and the town of Esquimalt except by a circuitous route of several miles.

"It appears that nothing was done by the corporation to restore communication until the 24th June, when the council passed an appropriation of \$5,200 for the purpose of replacing the defunct bridge with a temporary structure upon piles to be driven in rows at every sixteen feet. This work being immediately commenced, was objected to on behalf of the Dominion government, as being an obstruction to navigation, and unlawful under Rev. Stat. Can., cap. 92, which enacts that no bridge, etc., shall be constructed so as to interfere with navigation unless (as was not the case) the site thereof has been approved by the governor-in-council and the plans approved by the government.

"The corporation, notwithstanding the notice from the resident engineer, went on with the work, acting upon the conviction that the new pile bridge did not impose a greater obstacle to navigation than a former bridge did, which had been wholly removed and had ceased to exist upwards of ten years ago.

"On the 24th July, inst., upon the complaint of the attorney-general for Canada, an injunction was granted by this court restraining the defendants from further proceeding with the objectionable structure, on the ground that its erection is unlawful.

"The present action is now brought to prevent the corporation paying out any portion of the \$5,200 voted by them for the construction of the pile bridge, or any other moneys of the corporation in connection therewith.

"Whilst it is clearly settled in law that the corporation will be restrained by injunction from applying its moneys to unlawful purposes or to purposes not authorized by law (Att'y Gen. v. Aspinall, 2 Myl. and Cr. 613; Att'y Gen. v. Mayor of Norwich, 2 Myl. and Cr. 406), yet other considerations arise here. The officers of the corporation, wrongfully as it may be assumed, have given contracts for the work, which have been partially, and in some cases wholly, executed. These contracts were undertaken and executed by those engaged therein in good faith, and as valid contracts for the building or repairing of a bridge with a body corporate which has under the Municipal Clauses Act, sec. 50, subsec. 122, abundant power to provide for making, preserving, repairing, etc., roads, bridges and highways. The persons contracting with the corporation were not supposed to know, neither were they concerned to inquire whether, in their plans for restoring communication, the corporation intended to impede navigation, or whether they had or had not obtained the permission of the Dominion government so to do. Consequently it seems clear that the injunction, so far as it restrains the corporation from paying for work and contracts already done and executed, must be discharged. The corporation cannot be restrained from paying its debts.

"The injunction, however, will be continued to restrain the defendants from entering into or further proceeding with any contracts or works in pursuance of their projected pile bridge. It may be well for the plaintiff to consider what form of remedy he shall seek in this action. His grievance would appear to be not so much against the corporation as against the members thereof. The mayor and aldermen are trustees of the civic property and funds, and would seem to be liable for wasting and squandering the property entrusted to them the same as private trustees would be

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for wasting trust funds. Since the passage of the 'English Corporation Reform Act, 1835,' the individual responsibility of aldermenic bodies has been clearly defined by that act and subsequent legal decisions.

"The order therefore will be to discharge the order for injunction so far as it restrains the payment for materials or work already delivered or done, with leave to plaintiff to amend in the manner suggested by the defendant aldermen.

"The costs will be costs in the cause."

INVENTIONS WITHOUT PATENTS. If you look back on the history of human progress you will find that many of the great epoch-making inventions have never been patented.

Sunlight SOAP. IT MAKES HOME BRIGHTER. HOME IS VERY DEAR. Sunlight Soap. It makes homes bright and hearts light.

Old Dr. Gordon's Remedy for Men. Cures Positively. 127 lbs, 134 lbs, 165 lbs. Cures Positively. Cures Positively.

THE EXPEDITION. Herr Andree and His Party. Stockholm, Aug. 4. received from Spitzberg.