Supreme Court

(Continued from page 8.)

of the option of October first by Rothermere has not been proven by the Plaintiffs to be that Reids wrongfully or innocently, or in any way, represented a quantity of timber on the land which was not on that land. And then, my Lord, there is the question—I do not think that under the pleadings we are called upon to give any evidence in regard to it, nor do I think that the evidence which has been given by those who burden it was to prove the allegation as to the shortage of timber has been sufficient to call upon us to answer it. If for the moment I admit that the question as to the quanity of timber on that property is or is not a material point, or, rather, I should say that the question as to whether there was two million seven thousand cords of pulpwood on that property is or is not a material point—I admit that the onus is upon the Plaintiffs to prove that it was not there. The only evidence that has been adduced on that point is the evidence of Mr. Turner, a gentleman against whom I have nothing to say; I do not suggest for a moment that his evidence was not honest and sincere to the best of his ability and observation as far as it had gone, but, as has been submitted to your Lordship before, Mr. Turner admittedly did not make a complete and thorough cruise of that property. Mr. Turner did not spend on that property anything like one-half of the time that his superior officer, Mr. Gilmour, says would be necessary to make a complete survey, and further than that, Mr. Turner's figures cannot have agreed, I submit, with the figures that Mr. Scott, the general manager at Grand Falls, or Mr. Gilmour, the head cruiser at Grand Falls, reported to the Rothermere people, or if by any chance Mr. Turner's figures as to quantity of timber did agree or approximately agree with the quantity of timber reported by Scott and Gilmour, then I submit that the quantity of timber was not the moving factor in this deal at all. The value of the timber must have been the factor, and that that is evidenced by the telegram No. 775 where they say that these final negotiations with the Rothermere people that resulted in an agreement for the option of £220,000 are based upon the information that the Rothermere people had of the contents of the territory, and that the price was assessed according to that information, and that Mr. Cowley's letter, which is so much relied upon distinctly has reference to the question of the value of the property, the value in pounds, shillings and pence, and having regard to the time at which it was written, on the very day that this discussion and assessment of price is made, that it must be construed, I submit, that what Cowley refers to when he speaks of the value of the property must mean the price assessed at the meeting on that day and that is described in that telegram, and there has not been one tittle of evidence to show that the price assessed on that day and that the price appearing in the option of £220,000 is not a fair value for the property.

I submitt, therefore, my lord, that the Plaintiff's claim with regard to the Gander option, insofar as it is based on a claim that the non-exercise of the option was because the Plaintiff's cruisers reported a quantity of timber short of the amount mentioned in the option, and that because they reported a quantity of timber or because the quantity of timber mentioned in the option was not in fact there, must fail. First of all, because I admit, your Lordship, that it cannot be concluded from the evidence that is before the Court that, that was the cause of the men—exercise of the option, and I submit further, my Lord, that it cannot be concluded—there is not before your Lordship sufficient proof of a shortage of timber to discharge the onus which lies upon the Plaintiffs under this plea.

I am dealing, my Lord, at this stage of the proceedings with the various claims for a commission, and I am postponing until a later period the question of a claim for services rendered, and I hope, my Lord, that I have made it clear that I propose, with your Lordship's permission to deal with authorities at a later date.

The next point in the Plaintiff's claim is set forth in Paragraph 11 and those following, with regard to the Humber, but, with your Lordship's permission, I shall defer reference to the Humber matter until I deal with some others, and I had proposed to deal in the next instance with

the claim in connection with the railway sale.

Now, my Lord, there appears to have been a considerable amount of misunderstanding with regard to the various questions arising in connection with the railway and the claim with regard to the railway. But, first of all, there is a claim for a commission of ten per cent. on the purchase price received by the Reid Newfoundland Company from the Government under the Railway Settlement arrangement that took place in 1923. I cannot say on what this claim is based unless on one of two positions. First, that it is based upon the alleged oral agreement of December, 1919, or, secondly, it is claimed to have been such a direct and natural result of the Humber development scheme for which the Plaintiffs claim credit as to be subject to the commission of ten per cent payable under any one of the different agreements. Now, so far as it may be based upon the alleged oral agreement I do not propose to waste much time over it, because I feel quite convinced that the position with regard to this oral agreement has been disposed of, but I would say, my Lord, that here we find a reason for the oral agreement. Here, if we look at the matter from the standpoint of being based upon this alleged agreement of December, 1919, here we find a reason why it is necessary to have an oral agreement, to have such an agreement as that which has been set up here. The facts and circumstances surrounding this allegation of this oral agreement and the evidence in support of it are dealing with them made at a later siderable amount of doubt arises as to whether the matter was ever discussed. I do not think there is any doubt that it was never agreed upon, but a doubt that the matter was even discussed is shown by the evidence and the correspondence, and in the light of the fact that the other main grounds of claim made here, that is the claim with respect to the Humber and the claim with respect to the Gander, do not in any way need the existence of such an oral agreement as is claimed by the Plaintiffs, that they have a specific agreement in writing dealing with them made at a leter period, for whatever these agreements are worth and to whatever extent they go, but they do not need the allegation of this oral agreement, nor do they need that any effect should have been made to establish that allegation, and the only ground of claim in the whole of the Plaintiff's case that will need or would need to have recourse to such an agreement must be, I submit, the claim with respect to a commission on the sale of the railway. Now, my Lord, assuming then, for the purposes of the present argument that the Plaintiffs have established

the oral agreement alleged

in the amended Paragraph, 2 of the Statement of Claim, under that oral agreement as alleged we have "So far as regards services rendered in connection with any sales or other dealings in respect of which the Reid Company or its subsidiaries should receive moneys, shares or other securities or rights such remuneration should be ten per cent of the amount received." That is the language of the oral agreement as alleged in the amended paragraph, and I would like to draw your Lordship's attention to this position. This oral agreement, alleged oral agreement, also purports to say "that it was agreed that the Plaintiff Company should act as the sole agents for the Reid Company in Europe and should receive reasonable remuneration for its services, and that so far as regards services rendered in connection with any sales or other dealings," etc. Now, then, assuming that this oral agreement existed, assuming that the Plaintiff Company did act as the sole agents for the Reid Newfoundland Company in Europe, assuming that the Plaintiff Company did render services in connection with the railway, there certainly is not the slightest justification for a claim for a ten per cent. commission or for any commission on the sale of the railway to the Government which took place in 1923. I submit, my Lord, that the provision for ten per cent. on sales or other dealings in respect of which the Reid Company should receive moneys, etc., surely must be construed to mean sales which have been brought about either in whole or in part by the work or the action or the services rendered by the Plaintiff Company. Surely it is not going to be contended that because of this agreement which they claim was made that any sale which the Reid Newfoundland Company made, even any sale in Europe, is to be subject to the payment of a commission of ten per cent. to the Plaintiffs, whether they contributed to that sale or not. But even, my Lord, if that were the contention, and if that be the meaning of the agreement, I would like to submit, first of all, that they did not in any way contribute or take part in the sale to the Government; secondly, the sale to the Government was not a sale made in Europe, it was a sale made in Newfoundland; and, thirdly, that it was a sale made long after the relationship of principal and agent between the parties had ceased to exist and had no reference whatever to anything that had been done by the Plaintiffs prior to the termination of their agency contract. There is no evidence whatever—I am speaking now of a claim with regard to the sale of the railway under this oral agreement—there is no evidence whatever to connect the sale of the railway with this oral agreement. The most that can be made out of the Plaintiff's case, giving it the broadest possible construction in their favour, is that at some time during the period when relationships between the Reids and the Plainiffs existed, some work in connection with railway matters was done by Mr. Thomson in his individual capacity; that was done by Thomson as a Director of the Reid Newfoundland Company, and under a special contract of employment by the Reid Company, for which he was paid outside of the Trust altogether. If my learned friends contend that Thomson at the time was a Director of the Trust and if there be any doubt, and I do not think there will, as to whether Thomson in the performance of the services that we admit, not the services that would entitle him to any claim in connection with this commission, but certain services in connection with railway matters, that we freely admit and admit it in the witness box, that Mr. Thomson rendered the Reid Newfoundland Company, I say that these are services rendered by him in his capacity as an employee and director of the Reid Company, for which he was paid, and if it be contended, which is the most that can be contended for it, that these services were so mixed up with his work as a Director of the Trust, then I submit that the Plaintiffs have got to establish the position that it was not in his capacity as a Director and employee of the Reid Company that he rendered these services and that it was not for these services that he was paid the sum of $25,000. If, on the other hand, my Lord, it is claimed that the right to a commission on the sale of the railway to the Government, whether it be based upon the agreement, the alleged oral agreement, of December, 1919, or whether it be based upon the idea that it was one of the natural, immediate and direct results of the Humber deal with which the Plaintiffs claim to be responsible for, I submit that it cannot be entertained in that capacity whatever, because there is no proof or no evidence to sustain the position that the sale of the railway to the Government can be brought in as a direct, immediate consequence of any work which the Plaintiffs may have done or claim to have done in connection with the Humber development. Now, I propose leaving the question of the claim in connection with various railway matters, such as the segregation of assets and other things, until I get down to the stage of dealing with the question of a quentum meruit for services rendered. At this stage I am dealing merely with the claim for a commission on the sale of the railway to the Government.

Adjournment to 2.30).

N.B. & T. Co., Ltd.,
London,
26 July, 1920.

H. D. Reid, Esq.,
Reid Nfld. Co.,
St. John's.

Dear Mr. Reid.—We have to acknowledge receipt of your cable relative to the formal demand made on you for the option money by the Solicitors of Rothermere. Mr. Cowley informed us over the 'phone that the money had been received. We have kept in our mind your intimation to us to refuse to have anything to do with these people, but on Saturday about noon Mr. Cowley rang up and suggested that he would like to see me as soon as convenient. I could not refuse the invitation and proceeded to his office. He then made a firm offer for the Reid lots on the Gander exclusive of the Timber Estate lots, and his offer was 10|- per acre which he computed would amount to £120,000. He said he wanted an opportunity to view the property, and after inspection if he was satisfied he would make the first payment in December and the next two payments within two years. He desired that the Reid lots in the sale would conform to the description made in the agreement that was made between R. G. and the Daily Mirror. He was willing to waive any claim to the mineral rights of these lots. He emphasized that he would want the water powers.

I told him that I was instructed to intimate to him that such a price would not be agreeable to St. John's, but that in a spirit of civility, I would cable it over to you. I was impressed with the belief that Cowley is desirous to get Reid lots in the Gander area, and with the suspicion that he and his friends have some sort of working agreement either with the Gambo outfit or with somebody in Newfoundland or America who is very close to them. I gathered from our conversation that Cowley knew all about the situation in Newfoundland. He again told me that he had been offered timber lands in the vicinity of Bonnt Bay at a figure much less than the figure of 10|- per acre, and the man who offered this area to him was making further enquiries as to timber on these lands. I expressed the opinion that there could not be much timber lands near Bonne Bay, and so far as the knowledge of Cowley was concerned, he could not combat my point of view. He told me that he had again seen Lord Rothermere relative to Gander, and that the offer he made was to be considered as a firm offer. I took this to mean that it had the sanction of his chief. He says Lord Rothermere has gone to Scotland for a couple of months.

He also told me that had the titles of the Gander been fixed up on the date arranged in the agreement he thought the deal would have gone through as they were in possession of ample funds, but to-day he says the situation is difficult and they have not as much money as they had when they contemplated the purchase of the whole Gander area. He also told me that the Gulf Paper Mills mentioned in the Imperial Paper Company's proposition had been under option to Lord Rothermere for the past six months. I am inclined to believe that Cowley and his friends are open to a deal, but I am in no position to advise you as to the fairness of what they offer. I regret very much that the original deal, as planned, did not go through, but I am also certain that you have good properties in the Gander district, that pulp limits are valuable and that it is quite possible we shall be able to get someone or some group to consider a purchase at a price.

Yours faithfully,
W. H. GREENWOOD.

RED PIMPLES ALL OVER FACE

Also on Shoulders. Lost a Lot of Sleep. Cuticura Healed.

"Pimples started breaking out all over my face and shoulders. They were hard and red and I lost a lot of sleep on account of the irritation. The pimples on my face scaled over and my face was all disfigured.

"I used a lot of different remedies without success. I began using Cuticura Soap and Ointment and they afforded relief in about one month. I continued the treatment and in about three months I was completely healed." (Signed) Miss Marie Rose Peters, Box 32, Tourville, L'Islet Co., Que.

Keep your skin clear and your pores active by daily use of Cuticura Soap. Heal irritations and rashes with Cuticura Ointment.

Sample Each Free by Mail. Address: Cuticura Laboratories, Dept. 22, Malden, Mass. Price, Soap 25c. Ointment 25 and 50c. Talcum 25c. Cuticura Shaving Stick 25c.

McMurdo's Store News

FOR SUNBURN.

Daggett & Ramsdells Perfect Cold Cream is the best of all applications for Sunburn, Chapped Face, rough and irritated skin. It is an ideal emollient, clears and beautifies the skin, keeping it soft and youthful in appearance. It is unequalled for massage. It is guaranteed as its name implies Absolutely Perfect.

Tubes .. .. 40c.
Pots .. .. 50c., 80c. and $1.25
Meritor Tooth Brushes are the best made, soft, medium and hard .. 60c.
Meritor Dentefrice for the teeth .. 45c.
Dentu Creme for Artificial Teeth 60c.

AT OUR CANDY CORNER.

Chocolate Cherries .. .. 85c. lb.
" Cream .. Brazils .. 85c. "
" Banana Cubes .. .. 75c. "
" Molasses Toffy .. .. 75c. "
" Dates.. .. .. 75c. "
" Raspberry Jelly .. 75c. "

Our Extra Special This Week-End.

Blue Band Assorted .. .. .. 40c. lb.
Blue Band Nut and Hard .. .. 55c. lb.

JUST IN:

Ganong's Chocolate Strawberries .. .. 95c. lb.

AT OUR SODA FOUNTAIN.

We have delightful sparkling Ice Cold Soda Water, with delicious high fruit flavours. Our Ice Cream is of the purest and our Fruits are absolutely pure and genuine. When tired shopping visit our store and try our Ice Cream Sodas or Sundaes.

Novelist Mauled by Leopard

Reports from Tanganyika state that the novelist, Mr. Stewart Edward White, was mauled and wounded by a leopard. Mr. White was hunting with bows and arrows. A native gun-bearer was also injured. The injuries are not serious, but the escape was miraculous.

Mr. White is recovering, and is quite satisfied with the utility of bows and arrows against the biggest forms of game.

Just Folks.

By EDGAR GUEST.

MONEY

Twixt love and hate my mood to you is tossed—
Money, I love for the good you do.
The lives you bless in service kind and true,
The joys you give when mercy smiles at cost;
I see you shelter children, hungry, lost,
Rush where disaster strikes across the blue
To help strange peoples build their homes anew,
As though by sin your path were never crossed.
I love you then, but when I stand and see
The thousand crimes committed in your name,
And count the sum of all the misery shame;
See men turn cheats and liars for your sake,
'Tis then I hate you for the woes you make.

Excellent Afternoon and Meat Teas will be served at St. Michael's Garden Party on Wednesday afternoon. The ladies will be pleased to welcome you. Come along to Lester's Field and spend a pleasant evening.—july14,2i

Clippings From "Punch"

A vehicle has been produced which is a motor car in front and an aeroplane at the back. We understand that a Mr. Ford, of America, is patiently pursuing his experiments to construct a vehicle that is a motor car all over.

"The only horse I know anything about is the clothes-horse," said a woman witness recently. That's the one to put your shirt on.

While fishing near Derby an angler hooked a wallet containing twelve one pound Treasury notes. A native of Aberdeen has written to ask him what bait he was using.

The American doctors at the Guildhall banquet are said to have been impressed by the white-coated chefs who carve the barons of beef. This is rgardd as a fine tribute to British surgery.

"Are musicians clubable?" asks a daily paper. In our opinion many of them are, but we so often leave our club at home.

First Messenger (from newspaper office. "Wonderful writer, this Lord Birkenhead." Second Ditto.—Yes—and I hear also he does a bit of Cabinet work too."

SNEAKERS, "Hood Brand," superior quality, Black, Brown and White; Child's 90c., Misses' $1.00; Youths' $1.00, Boys' $1.15, Women's $1.15, Men's $1.25. PARKER & MONROE, LTD.
july11,7i

The Wild West

Prohibition and respectability have dealt sad blows to the Wild West of America.

The bloodthirsty Navajo still wanders the prairies of the south-west seeking prey. But he merely wants to sell souvenir blankets and feathers.

No more Buffalo Bills fling money lavishly on the counters of saloons at North Platte and order drinks for all. The saloons have passed, and even the coffee they serve is weak.

One two-gun man killed 38 others in pistol duels at North Platte. Now it is a nice, quiet place in which to have lunch.

One signboard outside a Western town reads:

"Cowboys used to ride daily into this town shooting and smashing all before them, after which they would pay for the damage. **Close your muffler—speed limit 15 miles an hour."**

Bitterest blow of all, the cowboys no longer carry pistols. They carry tube-mending outfits instead and ride in Fords instead of on mustangs. And the mustangs are no longer mustangs. They are just horses now.

* * * * * *

But some of the picturesque features we used to read about are still there.

The prairie dogs, whose burrows used to bring the hero's mustang crashing to the ground in face of the oncoming Redskins, are still a menace to the traffic of the prairi. They burrow in the middle of the highway and break motor car axles.

The rattlesnakes are there, too, but their bruised bodies line the highways—mute witnesses to unequal contests with those other rattlers—the ones with pneumatic tyres.

Striped cotton broadcloth is used for delightful bathing suits.

Black chantilly lace over black satin is good for evening.

A purse of brown antelope has a mounting of tortoise shell.

CITIZENS! Protect Your Property!

TROUTERS, ATTENTION!

One match, one cigarette, one cigar butt, or a spark from the pipe of a careless smoker may cause the destruction by fire of millions of dollars worth of timber and other property.

BE CAREFUL OF YOUR CAMP FIRES!

jy13,12i

PARKER & MONROE, Ltd.

THE SHOE MEN.

SEE OUR **CHILDREN'S SCUFFER SHOES**

Strong leather soles; just the thing for holiday wear. Sizes 5 to 2.

SPECIAL PRICE **$1.35** the pair.

CHILDREN'S BAREFOOT SANDALS.

Extra good quality, specially reinforced straps and buckles. Sizes 5 to 10. Special Price ..$1.25 the pair

SNEAKERS

Superior quality "HOOD" Brand. Extra strong rubberized soles. Black, Brown and White—**Child's, 90c.; Misses' $1.00; Youths' $1.00; Boys' $1.15; Women's $1.15; Men's $1.25.**

"HOOD" Brand Sneakers are made of pure Para Rubber and will outwear two pairs of any other brand.

Be sure and ask for "HOOD" Brand Sneakers.

Parker & Monroe Limited

THE SHOE MEN

jy10,5i,f,s,tu,th,s

Grows Hair In 90 Days

Money Back if it Fails

A minute a day is sufficient time to devote to this new method scalp treatment. Van Ess Liquid Scalp Massage is applied with a patened rubber applicator attached directly to the bottle. The healing medicament is fed directly to the hair roots through flexible rubber nipples. Van Ess stops falling hair — grows new hair in 90 days. Ask us about our 90-day treatment plan. We give a money-back guarantee. Get started now.

J. J. FEEHAN, Druggist.

july13,2i

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TUSCAN China TEA SETS

in solid colours; also the very latest in

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mar19,th,s,tu,3m

Ex. S.S. SACHEM and SILVIA:

A FRESH SUPPLY OF

HARTLEY'S JAMS and MARMALADE

20 CASES ORANGES.

10 CASES LEMONS.

LEMON CRYSTALS

in 2 Ounce Bottles and 7 Pound Tins.

Fry's Cocoa	Silvo Polish
Red Table Plums	Brasso Polish
Blue Table Plums	Zebo Polish

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PHONE NOS:—
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ASTHMA!

Spread Minard's on brown paper and apply to the throat. Also inhale. Quick relief assured.

MINARD'S "KING OF PAIN" LINIMENT

SNOODLES — Teeth Are Useful Articles — By CY HUNGERFORD