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Nov. 9, 1990.

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December, A. . WILKIN.

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L. BURNET.

Vestern Railway he Parliament of on for an act as ch lines west of already given in structed east of time within ts railways, and t such branches exceeding in any sed by the Govother purposes ILL OSWALD.

potenay Railway will apply to the its next session time within its railways and the company to and other vesfreight and pasected with any pointing Montreal office, with power ime to time to ad for other pur-

Secretary

TOWNLEY, Secretary.

IMPORTANT DECISION ON SHARES

Purchasers of Fully Paid Shares, Directly From the Company, are Liable for the Difference Between Price Paid and Face Value-The Kettle River Case.

vs. Bleasdell and others, defendants .-Judgment of Mr. Justice Walkem.

THURSDAY December 17, 1100

The question I have to decide is one of considerable importance, especially, to mining companies. It is stated in a "Special Case," which, in substance, is that th 1890," as the "Kettle River Mining and Development Company, Limited," and then reincorporated as the "Kettle River Mines, Limited," under the Companies Act that number of shares of a stated par value of \$1.00 each.

Four hundred and five thousand shares in the original company were issued at their par value, and with a special stipulation that they should, forever, be nonassessable, to Hagelberg and Hagen, as the price of the "Christina" mineral claim which the company bought from them.

Thirty thousand shares were set aside Treasury shares" for the development of the mine, but they proved to be un-saleable; and 495,000 shares, the balance of the 1,200,000, were reserved for three promoters, namely, 330,000 for Fear and Repass, and 165,000 for one Langley.

Fear and Repass sold 112,000 of their allotment, for which certificates were issued, at their request, direct to the purchasers and they abandoned the remaining 218,000 shares. This abandonment, to my mind, is a most significant circum-stance, for it practically means that they threw up a prospective fortune of \$218,-600, if there is a shadow of truth in the

30,000 shares of his allotment were, at his section which would live any way invalidate request, issued in different proportions, his title. He comes before the court not by his colleagues, and I have no hesing any many support of the enactment which I have read. He says 'I bow to the words of the enactment to the defendants, who had previous to interfere with it, but I have taken, in the interfere with it, but I have in the says in record. time trustees of the company), direct ment. I have not in any way attempted to the defendants, who had previous bought them from him at 4c each, on the faith of his personal state. ment, which turned out to be false, and of the further assurance of the company, which was conspicuously printed on the face of the share certificates that were were, and not from the com-

had not been paid. The company becoming financially em-1897, as provided by section 5 of that act, and assessing all promoters' shares so as to obtain means for paying its debts.

At the meeting 635,010 shares were reppresented, namely, 400,000 vendors', and 235,010 promoters'; but the defendants'

30,000 shares were not represented.

The first objection taken by Mr. Galt, on behalf of the defendants, is that the being an equitable one, is in no way notice given for the holding of the meeting led his clients to believe that their Acts. shares would not be assessed; but the ually did by a large majority, to re-incoring made assessable.

the debts of the company being paid, and also to the mine. which they had transferred to it, being properly developed. See, passim, Menier vs. Hooper's Tele-

graph Works, 9 Chy. App. 350. In accordance with the decision of the meeting, calls amounting to 2 cents a share were made on all promotion shares: and, the defendants refused to pay them, these proceedings were brought with a enforcing payment. (See Act of 1890 S 34.)

As I have already stated, the defendants DISTANCE AIRCRAFT NOTICE TO THE AIRCRAFT NOTICE THE AIRCRAFT NEEDS TO A TRANSPORT OF THE AIRCRAFT NEEDS TO AIRCRAFT NOTICE AIRCRAFT NOTICE AIRCRAFT NOTICE AIR AIRCRAFT NOTICE AIRCRAFT NOTICE AIR AIRCRAFT NOTICE AIRCRAFT AIRCRAFT AIRCRAFT NOTICE AIRCRAFT AIRCRAFT AIRCRAFT AI virtue of the first part of section 20 of the Act of 1890. I give the section in full: "20.—Each shareholder, until the whole ount of his stock has been paid up, shall be individually liable to the creditors of the company, to an amount equal to that not paid up thereon, but shall not able to an action therefor by any creditor before an execution against the comcoverable with costs against such share-

Every share in any company shall that the shares are paid up and non-asthe deemed to have been issued, and to be held, subject to the payment of the eral other cases bearing on the main on each box.

Take Laxative Bromo Quinine Tablets.

All druggists refund the money if it fails to cure. 25c. E. W. Grove's signature is on each box.

Kettle River Mines, Limited, plaintiff, same shall have been otherwise determined by a contract duly made in writing and filed with the Registrar of Joint Stock Companies at or before the issue of such

This section is, obviously, more stringent than our section 20, inasmuch as nothing short of a full cash payment for "paid-up" shares will discharge the holder from liability to calls; but I agree with plaintiff company was first incorporated from liability to calls; but I agree with under the provisions of the "Companies Mr. Nelson when he says that in other respects the two sections are analagous, or in pari materia. In Burkinsbaw vs. Nichols (3 App. Cas., 1,004), the effect of section 25 was discussed at great length, of 1897, by virtue of section 5 thereof, and the unanimous opinion of the House with a capital of \$1,200,000, represented by of Lords was that shareholders in the position, for instance, of the defendants are not liable for calls on shares which are marked paid-up. In that case, cer-timeates were issued which represented the shares to be fully paid up. A person to whom some of them were issued-say to Langley-sold the shares in the ordinary course of busines to others-say to the present defendants-wno bought on the faith of their being marked "paid up" without anything to cause enquiry as to whether such was the fact or not; and it was decided that, as against such purchasers, the company was bound by its statement that the shares were paid up, on the ground that it was evidence on which, as against the company, a purchaser was entitled to rely. In his judgment, Lord Cairns says (p. 1,016): "In the course of business Coulton transfers, for valuable consideration, to a transferee, a share, as to which there is a statement made in the certificate by the company that the money has been paid up. Now, I desire to know in what way this section" (mean ing section 25 of the Imperial Acts) "affects representations made by them to the pub- a transaction of that kind. It appears to lic, first, as promoters, and next, as trus-tees of the company, that the shares were worth \$1.00 each. Moreover, the infer-ence is irresistible that these promoters shall, no doubt, be an attribute or a conknew or thought that the Christina was dition of every share in the company valueless, and that they therefore came to But how that is to be, or what is to be the conclusion, after foisting 112,000 shares evidence of that payment, it leaves altoon the public, and thus extorting all they gether untouched. If the money is paid, could from it, that it would be better to throw up the 218,000 shares, and thus es- no question could be made that the transcape the shipwreck which they saw ahead, feree would have the right to hold it than to retain the shares and be engulfed as a paid up share; but if a receipt is in it. In view of the scathing language given for the money by the company, and used by eminent English judges in similar cases, I consider that what I have said is very moderate.

I have now to consider Langley's share fact that payment has not really taken place, there is nothing whatever in this. in the transaction. Amongst other things, place, there is nothing whatever in this 30,000 shares of his allotment were, at his section which would in any way invalidate

company that that section has been com-plied with." The observations of Lords Hatherley, Selborne and Blackburn are to the same effect. Lord Hatherly, in his judgment, dso untrue, that the shares so purchased to a case which decided that it is not vere "fully paid and non-assessable." How-the duty of a purchaser, if there is noth-ing to raise h's suspicions, to make comket, as it were, and not from the complete researches, which he would, indeed, find great difficulty in bringing to a satischasers, inasmuch as they bought without factory solution, as to whether the certificates handed to him, representing a given state of things, were true. It is much more expedient for the general safety of barrassed, the trustees called a special mankind that the persons whose duty it general meeting for the purpose of re-insection make full, true and correct representations it, under the Companies Act, sentations of this nature should be asserted. sumed to have so made them and should not be permitted to dispute them, than that the person to whom they are made should be bound to bestir himself to ascertain whether those representations are truly and justly made."

Lord Blackburn further remarks that the law of estoppel, which he characterizes as

Hence, the present plaintiff Company notice plainly states that the meeting is estopped from saying to the defendants would be asked to consent, which it event that the shares which were issued as being ually did by a large majority, to re-incor- "fully paid and non-assessable" were not poration, and to all promoters' shares be- paid up. In other words, the company can not be permitted to approbate and rep-

A second objection by Mr. Galt is that robate in respect of its certificates. the majority vote, composed, as it was, of at least 400,000 "vendors" votes, was oppressive and illegal, as it enabled that majority to benefit itself at the expense tificates of the shares they bought from of the minority: but I fail to see this. Langley the trustees might have put them for the vendors had a right to insist upon on their guard by telling them, which they failed to do, that the shares were not paid up. More than this, they might have refused to issue certificates marked paid-up

when the fact was otherwise.

The last case to which I shall refer is that of Hirsche vs. Sims A. C. (1894), in which the Privy Cocncil held that (see p. 657), "It was not competent for trustees or directors to issue any shares at a discount, so as to make the holders liable for less than their full amount," and that where the shares passed into the hands of bona fide purchasers from the first holder, the company would, necessarily, be estopped from saying that they were not paid up. The Court also held that directors, or trustees, who issue such shares, are answerable for the difference between

the price received for them and their par To state the effect of these decisions tersely and as applied to the present case, the House of Lords, virtually, says to an intending investor in shares: "If you buy shares at 10 cents each on certificates which represent them to be of a par value of \$1.00 each 'paid-up' direct from the comhas been returned unsatisfied in pany, you must pay the difference between whole or in part: and the amount due on the 10 cents and the par value, because such execution shall subject to the profit you knew at the time you bought that the 10 cents and the par value, because Visions of the next section, be the amount you had not paid their face value. If, however, you have bought these same shares in the open market, on the same Mr. Nelson further contends that, in its certificates and at the same price, you meral effect this section is similar are not responsible for the payment of the section 25 of the Companies difference, as you are entitled to rely on the company's statement in the certificates

take proceedings to have the contract un-der which they purchased the shares res-cinded; and he cited authorities to that effect; but these authorities apply to cases where the holders of the shares are pur-chasers direct from the company, and not from a transferee, hence they do not apply

In view of the decisions of the House of Lords, which I have referred to, judgment must be entered in tayor of the defendants with costs.

ROSSLAND-BONANZA IMPROVING

THE VEIN IS GROWING RICHER IN THE TUNNEL.

A London Mining Paper Devotes Considerable Space to the Prospects of the Rossland Bonanza Company.

The Rossland-Bonanza continues to improve. Mr. Stephen Brailo, the foreman, put on a new fast train between Portland brought in some fine looking ore from and Chicago, via Huntington. Leaving the mine last evening and placed it on Spokan: at 7:35 a. m., giving connections exhibition in the window of the Miner on branch lines, well arrive at Pendle office. He says it is the richest ore ever brought into this city from that section. In speaking of the Rossland-Bonanza last evening Mr. Brailo said: "The tunnel is in for a distance of 85 feet and the depth from the surface is about 75 feet. The full width of the face of the tunnel, which is five feet, is in quartz of a high grade. The sulphides of lead, copper and iron are stronger than when nearer the surface | The train leaving Spokane at 3:40 p and free gold, visible to the naked eye, m. will connect at Umatilla as heretofore is found in the ore in large quantities with through sleeper to Chicago and Kan than ever. The samples previously as- as City. sayed, representing the last 30 feet of Consult the nearest ticket agent for de work, show an average value of over \$35 to the ton for the pay streak and over \$20 for the full face of the drift. The present face will undoubtedly run much

"On the Uncle Sam, at the foot of Grenville mountain, the cabins are completed and the work of driving a drift tunnel has been commenced. There are several other properties working in the vicinity of the Bonanza. I have no personal knowledge of what the showings are, but the reports are all favorable. I understand that the Cascade company, which owns the adjoining ground to the Bonanza, and in which I am personally interested, has made arrangements to resume work right away. This property was recently experted by Mr. S. W. Hall, the president of the Bonanza company, and he made a very favorable report upon There are several other companies which intend to resume operations in that vicinity after the holidays and the coun-

try generally is coming to the front."

The British Columbia Mining Review of London, Eng., in its issue of Dec. 1, makes the following comment on the prospectus of the Rossland-Bonanza company which was brought to their attention through an advertisement which appeared in the Miner:

pectus of a joint stock mining venture which appeals to one at first sight as a good, fair speculation, with no extravagant forecasts of problematical shipments, ore bodies, or huge dividends that these ore bodies, or huge dividends that these stands leaves viscous for high rare documents deserve mention. The Sound ports, on the 1st, 7th, 14th and 20th Rossland Bonanza Gold Mining & Milling of each month, extending latter trips to Co is a most massuming and straightfor. Quatsino and Cape Scott. Co. is a most unassuming and straightforward venture, judging by the prospectus, which reflects much credit on the promoters. The capital is \$50,000, the ven- notification. dors take \$20,000 in snares which are pooled, and \$30,000 is available for development. The vendors apparently receive no remuneration and the board is one of the most workmanlike we have yet across. The chairman is superintendent of the Iron Mask, the vice, foreman of the War Eagle and Centre Star, another miner and the master-mechanic of the War Eagle are on the board, together with a barrister, who happens to be one

of the most able and popular members of the legal profession in Rossland. "The asset of the company consists of just one claim, full-size (52 acres)-tunnel driven in 50 feet, shows vein averaging feet, assaying 15 dwts. The plan of development is simply to continue tunnel right through the claim-1,500 feet. We are told that the ledge has widened to eight feet since work was resumed. And this is all! We are not reminded that Le Roi shares once sold for 2 cents, or that if this eight feet of ore averages so many pennyweights, and so many hundreds of tons are crushed every day (this is one of the few free-milling claims near Rossland), monthly dividends of huge size will be paid. Just a few plain facts, one simple plan of development, an essentially practical board, and, as a result, that rara avis-an almost ideal prospectus. The secretary(who is well known in connection with the local Board of Trades, says this is 'the best investment ever offered in Rossland.' We certainly think it is the most straightforward speculation. It is, of course, a purely local issue."

Hendrik's Cutting.

It is not the Seven Devils this time which have been the cause of the delay on the Spokane trains. Fourteen miles below Northport on the river edge is a bed of loose soil in a cutting on the river bank which is based on some fine gravel or sand. As at this particular point the river sweeps the bank there is a con-stand undermining of the bed referred to. One day last week just as the train was in the act of passing over suddenly the soil slipped into the river, leaving the rail and sleepers suspended in the air.
The place was instantly filled up but the ground at this point seems to be slipping right along and the filling process has to be repeated again and again. The break is rather extensive, running over 300 yards along the track and evidently breaking from a point as far or farther up the bank beyond the track. The matter is one that is puzzling the engineers of the railway to a considerable extent.

TOCURE A COLD IN ONE DAY

question before me; but it is needless to mention them in view of the above deccisions of the House of Lords. Mr. Nelson has also contended that the proper course for the defendants to have taken was not to resist the action, but to take was not to resist the action, but to take was not to resist the contract understanding the contract understanding to have the contract understanding the contrac

why not put something by now? Write for descriptive pamphlet of farms for sale in Lower Fraser Valley, THE GARDEN SPOT OF THE PROVINCE.

We can sell you farms on SMALL MONTHLY PAYMENTS which you will never feel, and in a few years you own A HOME FULLY PAID FOR. Apply

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ailed information.

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way at 8 p.m. BARCLAY SOUND ROUTE. Steamer leaves Victoria for Alberni and

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Allan Line—Tunisian..... Dec. 13 Allan Line Steamers call at Halifax one day later. Dominion Line-Dominion..... Dec. Dominion Line-Cambroman Dec. 18 (|From St. John, N. B.)

N. G. Lloyd Line-Lahn......Dec. 11 French Line—La Gascogne..... Dec. 13 Allan State Line—Sardinian..... Dec. 8 (From Boston.)

Cunard Line—Saxonia...... Dec. 8
Dominion Line—Commonwealth.. Dec. 12 Passages arranged to and from all European points. For rates tickets and full information apply to C. P. R. depot agent, or A. B. MACKENZIE,

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	age during for orange		
Greenwood.			1
EFFECTIV	E SUNDAY, DEC	. 25, 1900.	Ċ
Leave.	Day Train.	Arrive.	1
8:00 a.m	Spokane	6:40 p.m.	100
11:50 a.m	Rossland	3:10 p.m.	-
7:00 a.m	Nelson	7:15 p.m.	1
	Night Train.		3
9:45 p.m	Spokane	7:00 a.m.	1
11:00 p.m	Rossland	7:00 а.та.	-
First-class	sleepers on night	train.	
	H. A. JAC		1
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No. 3, West Bound	10:50	p m.	11:00 p. m	
No. 4. 'East Bound	11:45	D: III.	11155 p. m	
Coeur d'Alene Branch	5:30 1	o. m.	7:25 a. m	
Palouse & Lewiston "	1:15	p. m.	9:50 a. m	
Central Wash Branch			8:30 a. m	
Local Freight West			6: 0a. m	
Local Freight Hast		p. m.		

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Leaves Kaslo for Nelson at 6:00 a. m., laily except Sunday. Returning, leaves Nelson at 6:40 p. m., calling at Balfour, Pilot Bay, Ainsworth and all way points. Connects with S. F. & N. train to and from Spokane at Five-Mile Point.

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