

RAW, SORE THROAT

Eases Quickly When You Apply a Little Musterole... Musterole won't blister like the old-fashioned mustard plaster.



To the Electors Of Ward Four

To the Electors of Ward 4: At the request of many electors of Ward 4, the undersigned again offers for election in the forthcoming civic contest as a representative of this Ward.

CARD

To the Electors of the City of Charlottetown: Ladies and Gentlemen, At the request of a large number of electors I have decided to become a candidate for Commissioner of Sewers and Water Supply at the forthcoming Civic Election.

To the Electors Of Ward Four

Ladies and Gentlemen: At the request of a number of the Electors of Ward 4 I have consented to be a candidate for Councillor at the Civic Election on February 13th, 1924.

QUEEN HOTEL

WATER STREET CHARLOTTETOWN This popular Hotel has been completely renovated and re-furnished throughout and offers very comfortable accommodation to the travelling public.

Central Guardian

SPECIAL SKATE at Arena tonight. ACTION ALL THE TIME at West Kent sports Friday night at Arena.

CHARLOTTETOWN DRIVING CLUB meeting tonight at 8 o'clock sharp.

A MEETING OF THE CHARLOTTETOWN Driving Club will be held tonight at 8 o'clock.

THE GIRLS' RACE ALONE is worth a price of admission 25 cents at West Kent Sports Friday night Arena.

P. W. C. vs. BANKERS 1 1/2 hour's skate with band at Arena tonight. Admission 26 cents. 21

HOCKEY MATCH, P. W. C. vs. Bankers starts at 7.30. Skating with band after game. 11

RECEIVED SAD NEWS.—Mr. J. B. Arsenault, city has received the sad news of the sudden death of his son-in-law, Isidore Myers, formerly of St. Louis, P. E. I., and latterly of Lawrence, Mass.

Wage Dispute

(Continued from Page 1)

reach some means of settlement either by agreement, arbitration or conciliation, that will bring about a termination of the deplorable condition now existing at the mines. The public interests of this province cannot much longer tolerate the condition brought about by its employers and employees, continuing a struggle which means ruin to all concerned.

Mr. Barrett's Reply. Mr. Barrett's reply said: "In reply to your telegram, permit me to say my associates and I are keenly alive to our responsibilities and have been for some time, and we regret very much the position the public at large has been placed in, and while we can realize the general inconveniences that have been brought about by the lockout that was put into effect, we must give thought to the miners and their families in the miners being granted a decent wage so that they and their families may be able to enjoy some of the things that are worth while in life. In reply permit me to say we will not be a party to ordering the miners to return to work until a contract has been negotiated, carrying a substantial increase in wages. We take this position in conclusion for justice to the miners and their families."

MONTREAL, Feb. 4.—With the arrival of Andrew Steele international officer of the United Mine Workers, who joined the officials of the union from Cape Breton in an attempt to settle the situation tying up mining operations there, was begun by a conference with the officials of Bescoe this morning.

The Miners' representatives go into conference demanding a substantial increase in wages. As is usual with such conferences no reports will likely be handed the press until proceedings are over.

Further Particulars

(Continued from Page 1)

WASHINGTON, Feb. 4.—The funeral services for the former President Woodrow Wilson will be held Wednesday and will be private in the sense that there will be no state ceremony. A large number of friends and former associates have been designated as active and honorary pall bearers.

Hotel Arrivals

REVERE HOTEL M. M. Ryan, New Glasgow; S. S. Wilson, Galt; A. McInnis, Red Point; C. H. Nelson, Moncton; J. J. Dunphy, Moncton; C. N. R.; F. Couley, Richmond; Simon Pineau, North Rustico.

IN MEMORIAM

In loving memory of Robert H. Barrett who departed this life, February 5, 1923.

Death our dearest he has severed Took our loved one from our side Bore him from our home forever O'er the dark cold river's tide O'er the happy land we'll meet him With those loved and gone before And again with joy we'll greet him There where parting is no more.

INSERTED BY HIS WIFE AND FAMILY

CHILBLAINS

Minard's takes the sting out of them. Quickly relieves aching or blistered feet.



Judgment in Chancery

(Continued from Page 1)

and "the disputed strip." "The disputed strip" is of the same length north and south as the "12 foot strip" and is bounded on the west by the "12 foot strip" and on the east by the old line of posts and fence formerly enclosing the Weatherbie Lot on the west end thereof.

At the trial, the defendant's counsel after the first witness John Mollison, Land Surveyor, had been examined, raised the objection that the evidence of this witness disclosed the fact that there was a question of title involved in this suit and that therefore this Court had no jurisdiction that the remedy was at law and that an issue should be directed. There was no argument on the point, but on the suggestion of the Court to which counsel on both sides agreed the point was left to be argued at the conclusion of the case and the taking of the evidence was proceeded with.

On the argument and in support of his preliminary objection, counsel for the defendant quoted Inter Alia Walter on Partition Cases 2nd Ed. pp 61 to 64 and the cases therein referred to. After review of the ink those cases, this author sums up the law as follows: "The Court has jurisdiction under Sir John Rolts Act to decide legal questions which may incidentally arise in actions for partition where the parties claim under the same title, and the question between them is only one of construction, but where the parties claim under different titles or where the construction of legal questions is not merely incidental to partition or sale but forms the real gist of the action, then the Court has no jurisdiction given it by the Act." —(Slade v Barlow L. R. 7 Eq. 296; Bolton v Bolton L. T. N. S. 556; Giffard v Williams 8 Eq. 494 in app. S chap 546).

I accept the law as summed up above and in other authorities and can only repeat that in partition suits where the construction of legal questions is not merely incidental to partition and sale but forms the real gist of the action the Court has no jurisdiction given it by the Act.

But the present case is not one of partition and I am of the opinion that there is a difference made in cases of partition and sale and in cases of injunctions to abate a nuisance, and such would appear from Daniel Cham. Prac. Vol. 2 (5th Ed.) at page 1478 where it is said "an injunction will also be granted, in some cases, where the parties have both legal titles and legal remedies, but irreparable mischief would be done unless they were entitled to more complete relief than that which they would obtain at law. It has accordingly been granted, even where the injunction amounted in fact to an injunction to stop a trespass. Turner v Rinswood Highway Board 9 Eq. p. 418 Cook v Mayor and Corporation of London (L. R. 6 Eq. 177) were both actions for injunctions and were disposed of, the one by James V. C., the other by Martin V. C., and no question of jurisdiction was raised. More-over it can hardly be said that the construction of legal questions in this case is not merely incidental but that it forms the whole gist of the action. This is an action for an injunction and in most applications for an injunction before this Court, especially in actions to abate a nuisance, questions of title must necessarily arise and do arise, but I find that case after case of a similar nature to this one have been tried in England, both before and after the enactment of the Judicature Act, without an issue at law being directed. On this question of jurisdiction and on the effect of Sir John Rolts Act and the law proceeds, not that which has been enacted and are law in this Province) and in answer to the objection raised in this case, I cannot do better than quote at length from the judgement of Sir G. M. Giffard (L. J.) judgement in Roskell v Whitworth (5 Ch. ap. 459) at page 463, he says: "With regard to Sir John Rolts' Act, there were two instances in which parties coming for an injunction were told that they could have no perpetual injunction without first of all obtaining a judgment at law, the object of the Act was to abolish the necessity of any such course, and to impose the duty on this Court of trying the case completely. I do not think that it was intended to oblige this Court to direct an issue where otherwise it would not have done so, or to call into operation the intervention of a jury when otherwise it would not have done so."

Under Lord Cairns' Act the Court, if it thinks a jury essential to the purposes of justice, can have a case tried by a jury before itself, and I take it that the clause authorizing the sending of a case to a Court of law was added in Sir John Rolts' Act for the simple reason that there are some cases fit to be tried by a jury in which, for the sake of convenience and saving of expense it is desirable that the trial should take place in the country. When Convenience and Sav-

ing of expense require such a course, I take it the Court will direct an issue, but unless a strong case is made it will be reluctant to send the trial of the case into what I may call a foreign jurisdiction."

And again at Page 465 he goes on to say "Two grounds have been mainly suggested. First of all there is the general ground that it is a legal question. But I wholly deny that every legal question is to be sent to a jury. There have been multitudes of cases decided by the Court of Chancery, and most properly decided, in which the question of nuisance has been tried by the Court itself."

And at page 466 he sums up as follows: "To that I shall only add this, that although I have said—and I adhere most distinctly to what I have said—that it is competent for the Court, at any stage of the case, if it thinks the ends of justice require it, to send the issue to a jury, it is not right to encourage applications of this description, for they obviously are very inconvenient and unnecessarily take up the time of the Court."

If it needed any further authority on this point it is to be found in the case of Bovill v Hitchcock (L. R. 3 Ch. Ap. 417) in which Lord Cairns L. J. reviews the law. At page 418 he says: "This appeal is rested on two grounds—the first being that as before the course of the Court of Chancery was altered, as to as to throw upon the Court the duty of deciding questions which, according to its former course, were sent to be tried at law, a question of this nature would have been tried before a jury, so now either party has a right to insist on its being so tried, I cannot accede to this argument. The effect of the Acts is to impose on the Court the duty of deciding these questions, and, in the absence of anything to the contrary in the Acts, the Court must try them according to its ordinary course of practice. If the Court thinks it best that a question should be tried before a jury, a jury can be had, but if, in the opinion of the Court, a trial without a jury is preferable, neither party can claim a jury as a matter of right. It is a fallacy to say that under the old practice the Court required a legal question to be tried by a jury. What it required was a judgment of a Court of Common Law. In most cases it was a necessary incident to proceedings at law that there should be a verdict of a jury before judgment, but these cases were sent to law not that a question might be tried by a jury, but because this Court had no jurisdiction to decide upon legal rights."

BIRTHS

MATHESON.—At Emerald, Jan 27, to Mr. and Mrs. Joseph D. Matheson, (nee Laura Mallett) a son Congratulatory.

BIRT.—In this city at 9 Gorak Street, February 3, 1924, to Mr. and Mrs. William Birt a son, 11 pounds.

CALLAGHAN.—At Wiltshire on Tuesday the 29th day of January, 1924, James Joseph, infant son of Patrick J. and Mrs. Callaghan, aged eight months.

Her Doors to Little Refugees from the Near East

Orphan boys at their new home at Georgetown to be good Canadian farmers. A few short arving in the famine regions of the Near East. They are being cared for by the Armenian Relief Fund American Near East Relief committee, is seeking to save Christian nations in the world. When these boys grow up they will be given farm lands in Western Canada.

Send subscriptions to Mr. L. D. Murray, Honorary Treasurer Prince Edward Island. Address: Bank of Nova Scotia, Charlottetown, P. E. I.

Mollison gives the exact length as 268 feet. None of the witnesses examined before me with the exception of Mr. John Mollison, Land Surveyor seemed to be able to fix with any degree of accuracy the width of Bedford Row in feet (that is of "the 12 foot strip" and "disputed strip") at any time within their memory and various estimates as to width measured from the west side line of this street to the said fence or to posts to which a fence was affixed on the east, were given. Many of the witnesses who referred to these posts and fences seemed to have regarded it as forming the western boundary of the Weatherbie Lot. As to when these posts were put down or the fence erected not even the oldest witness could remember and none of the witnesses remembered that the site of this fence or these posts was ever changed or that the street was ever different in width for a period extending back in some cases to thirty-five years, except about the year 1919, when the alleged encroachment or nuisance was committed. Mr. John Mollison at page 3 of the evidence says that the first time he took observation of the street the part traveled or turpiked was 20 to 22 feet wide, possibly 22 feet; and at pages 6 and 7 he says that after the street had been widened a few years after it measured 25 feet wide at the south end and 24 feet at the north end. These measurements were from the west boundary line of the street to the west edge of the ditch or bank of the ditch on the east. It would serve no purpose here to canvass the evidence in detail. From the sum of the evidence I find that "the twelve foot strip" and "the disputed strip" had been used by the public as a street or highway for a period extending back thirty-five years and over; that the eastern boundary line of said "disputed strip" was a line of posts to which a fence was affixed to enclose the western end of a field known as the Weatherbie Lot. That from the time of the fire in Summerside about the year 1907, this fence was allowed to go to decay but that its site is still ascertainable.

The question arises whether there ever was a dedication of this "disputed strip". It is not contended but that there was a dedication of the "twelve foot strip". The only evidence of dedication I find of the "twelve foot strip" is in the Anderson plan of 1857. This plan would show on the part of the owner Mr. Weatherbie, who it is alleged owned the plan, an intention to dedicate this strip as a highway or street. I submit, however, that an intention to dedicate in law is not sufficient to constitute a dedication unless it is actually opened and used by the public. In the present case what was evidently thrown open and actually used by the public was not only "the twelve foot strip" but a strip of much greater width. Posts and a fence on the east side of the "disputed strip" having been erected to enclose the field of the owner of the soil, it must be considered, and I do consider that this was notice to the public, and on which the public acted by using the "disputed strip" along with "the twelve foot strip" for all the purposes of a highway,—that this fence and posts was the eastern boundary of the "disputed strip."

I must therefore come to the conclusion from the sum of the evidence, that there has been a dedication of this "disputed strip" along with the "12 foot strip" as a highway or street for a period extending back for thirty-five years and over.

It is clear law that although users need not amount to dedication or not even evidence of an intention to dedicate may be presumed and this has been held so in many cases. Poole v Huskisson (11 M. W. 830) may be called the leading case on the subject and the judgement of Parke B. has been frequently referred to with approval in subsequent cases. Parke Baron says in the above

FEEDING COWS ON FISH

It seems somewhat startling to learn that cows are fed on fish. Since, however, this information is contained in a consular report, it seems to be dependable, says an English writer. The cows which have become fish-eaters are owned by the Faroe Island folk, and the fish on which they are fed is coal-fish, a sort of pollack. The fish is not cooked in any way. It is merely dried, and before being given to the cows is pounded between two stones. It seems to agree with them, for they live on it during most of the winter and yield excellent milk. Some cattle have queer tastes, for the writer has seen them down on a beach by the sea grazing on some sort of seaweed which they seemed to appreciate. And while most animals know well enough what is good for them, cows sometimes fail in this respect. A case is mentioned in which some painters having left pots of paint behind a hedge in a meadow where cows were grazing, the animals went and licked up the paint. Ten were badly poisoned and two died. Not long ago a wild dog, which came from South America, was given to the Zoo. It is not a true dog, but a sort of missing link between the dog and the fox. This creature in its wild state roams the beaches, and its principal food consists of crabs, the shells of which it cracks with its strong teeth. This reminds the writer of the ponies which were introduced a good many years ago from South America to the Cook Islands in the Southern Pacific. These animals originally came from Chili, where presumably they lived, like other horses, on grass. But grass is not too common in the Cook Islands, and these ponies have got into the queer habit of eating coconuts, which are very plentiful. You might imagine that the shell of a coconut would defy any horse equal to the task, and working into into a suitable position, they stamp on it until they break the shell. Then they quickly bite away the succulent kernel.

There is only one other point arising in this case. Evidence was adduced by the defendant that when the house which it is alleged in evidence is built in part on this "disputed strip" was under construction the Town of Summerside through its officers gave a permit for connecting the land house with the Town Water and Sewerage System, and also that the town entered into negotiations with the defendant's predecessor in title, Mr. Maynard Schurman for the purchase of 15 feet in width along the said Bedford Row or Railway Alley and immediately east of the "12 foot strip."

It appeared to me from the evidence and I have no doubt that such was the fact, that in these negotiations the town was simply endeavouring by an amicable settlement of a dispute, to avoid a law suit, and that thereby there was no admission of Mr. Schurman's title. I further attach little importance to the fact that certain officials, unauthorized of the facts, gave permission to connect the water and sewerage system of the town to the dwelling house of the defendant. In any event no action on the part of these officers or of the town could prejudicially affect the rights of the public, nor could such rights be interfered with by any part of a street dedicated and used by the public be closed or obstructed except through the means provided by statute.

The complainant is entitled to succeed in this action. There is, in my opinion, no sufficient evidence in this case to rebut the presumption of dedication from long user by the public of the "disputed strip" nor is there sufficient evidence to rebut the presumption that the whole of the "12 foot strip" and "the disputed strip" (which latter I hold to extend east to the old line of fence and posts, used at the western end thereof to enclose the Weatherbie Lot and extend north and south from Belmont to Fitzroy streets), constitutes the said street known as Bedford Row or Railway Alley so called, and I hold as a matter of fact that the said posts and fence formerly enclosing the said Weatherbie Lot on its western end were put up for the purpose of separating the land in dispute to be dedicated as a street or highway from the land not so dedicated.

I further find that the western part of the foundation on which the dwelling house of the defendant is erected and the western part of the said dwelling house as well as the line of posts marking the defendant's alleged western boundary as Bedford Row or Railway Alley, and such part of said foundation and such part of the said dwelling house as the west of the said old line of fence and posts as designated as aforesaid as enclosing the Weatherbie Lot on the west and which I have herein held forms the eastern boundary of Bedford Street or Railway Alley together with all the said line of posts erected by the defendant to mark his alleged western boundary line must be removed and the said street restored, as nearly as may be to the same condition as it was previous to the digging up and the making of said foundation and the erection of the said dwelling house and line of posts and it will be decreed accordingly.

The defendant will pay the complainant his costs of this action. Further leave to apply.

"BETTER BABIES" FOR INDIA



Lord and Lady Reading, Viceroy of India and his wife, a few days ago opened the first of a series of 500 baby shows in India. They have been instituted with a view to improving conditions as they affect the children of India. Lady Reading is keenly interested in the women of India, and the picture shows her a short while ago looking over the plans for the hospital to be erected and named for her. Just behind her is Colonel Carey Evans, son-in-law of Lloyd George. The picture was taken at Simla.

Justice Joyce quotes with approval the law as laid down by Vaughan Williams L. J., in Neele v Hendon Urban Council (81 L. T. 405) "The presumption is that prima facie, if there be nothing to the contrary, the public right of way extends over the whole space of ground between the fences on either side of the road, that is to say, that the fences may prima facie be taken to have been originally put up for the purpose of separating land dedicated as a highway from land not so dedicated."

There is only one other point arising in this case. Evidence was adduced by the defendant that when the house which it is alleged in evidence is built in part on this "disputed strip" was under construction the Town of Summerside through its officers gave a permit for connecting the land house with the Town Water and Sewerage System, and also that the town entered into negotiations with the defendant's predecessor in title, Mr. Maynard Schurman for the purchase of 15 feet in width along the said Bedford Row or Railway Alley and immediately east of the "12 foot strip."

It appeared to me from the evidence and I have no doubt that such was the fact, that in these negotiations the town was simply endeavouring by an amicable settlement of a dispute, to avoid a law suit, and that thereby there was no admission of Mr. Schurman's title. I further attach little importance to the fact that certain officials, unauthorized of the facts, gave permission to connect the water and sewerage system of the town to the dwelling house of the defendant. In any event no action on the part of these officers or of the town could prejudicially affect the rights of the public, nor could such rights be interfered with by any part of a street dedicated and used by the public be closed or obstructed except through the means provided by statute.

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The defendant will pay the complainant his costs of this action. Further leave to apply.

Corns



No Paring—End Them Don't let the agony of corns destroy your comfort. Apply Blue-jay—and instantly the pain vanishes. Then the corn loosens and comes out. Does away with dangerous paring. Get Blue-jay at any drug store.

Blue-jay

HOTEL VICTORIA Offers to the travelling public a comfortable, up-to-date hotel. Contains 44 rooms with private baths. The Cuisine is famous all over Canada. Telephones in all rooms. Courteous service. H. C. BROWN Manager

Charlottetown Hotel Co., Ltd.

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A Quick Relief for Headache

A headache is frequently caused by badly digested food, the acids and acids resulting therefrom are absorbed by the blood which in turn irritates the nerves and causes painful symptoms called headache, neuritis, nervousness, etc. 15 to 30 drops of Mother Selig's Syrup will correct faulty digestion and afford relief.