entirely opposed to what Mr. Kennedy contends that he may have meant. In my opinion there is nothing to lead me to suppose that he intended to alter the note from being a note payable "on demand" to a note which was not payable on demand. Therefore, I think the note is sufficiently stamped, and ought to have been admitted in evidence.

Attorneys for Appellants: *Messrs. Hatch* and *Hoyle.*

Attorneys for Respondents: *Messrs. Judge* and *Gangooly.*

B. L. R. Vol. V, p. 109.

(*Original Civil.*)

The 3rd February 1870.

Before Mr. Justice Macpherson.

ABBOTT *v.* CRUMP.

Partnership, Dissolution of—Adultery of Partner with Wife of Co-partner.

Adultery of one partner with the wife of his co-partner, is a sufficient ground for dissolution of the partnership.

THIS was a suit for dissolution of partnership, for an account, for the appointment of a receiver, and for an injunction to restrain the defendant from dealing in any way with the co-partnership business and effects.

The plaintiff and defendant entered into partnership, as chemists and druggists under the name of Crump, Abbott and Co., by articles of agreement dated the 10th September 1864, the partnership to continue for eight years from that date. This agreement was revoked by other articles of agreement dated the 13th of December, 1867, under which they entered into a fresh partnership for the remainder of the eight years, it being agreed that the defendant should have a ½ share and the plaintiff a ½rd share in the business. It was provided that the plaintiff should devote his time and attention to the business so that it should fully compensate for the share he took, and that the defendant should display such interest in the business as lay in his power, without detriment to his other prospects in life. It was also provided that the defendant should live and reside at his option in the upper floor of the business premises, and that the plaintiff should live with him, but should remove at the request in writing of the defendant. The plaintiff, on or about the 12th July 1869, discovered that the defendant was carrying on an adulterous intercourse with his wife, and thereupon wrote to the defendant through his attorneys asking that the partnership should be dissolved. Negociations were entered into between the partners for this purpose, but they were afterwards broken off. On the 29th of July 1869, the plaintiff filed a petition for a dissolution of his marriage on the ground of his wife's adultery with the defendant, and a decree *nisi* for dissolution of his marriage was made on the 20th December 1869. The material question in the case was whether the defendant's having committed adultery with the plaintiff's wife was sufficient ground for a dissolution of partnership.

Mr. Marindin (with him *Mr. Hyde*) for the plaintiff, contended that though adultery committed by one of the partners, "even of a most disgraceful and profligate description" with another man's wife, might be no ground for dissolving the partnership, —*Snow* v. *Milford* (1),—adultery by one partner, with the wife of his co-partner, was a sufficient ground for decreeing a dissolution of the partnership.

The defendant in person *contra.*

Macpherson, J.—In this case the first question is whether the fact of the defendant having committed adultery with the wife of the plaintiff, is a sufficient ground for the dissolution of their partnership. I readily admit that immorality generally is not a ground, and also that the mere fact of one partner committing adultery with other than the wife of another partner is no ground, but anything which makes it practically impossible for parties to join in the work of their partnership is a ground for dissolution, and it is one of the first principles that it should be so. Adultery has been proved, and a decree for dissolution of marriage made under such circumstances that it is absolutely impossible for the plaintiff to carry on any business with the defendant. I have no doubt whatever that adultery with a partner's wife is a sufficient ground for dissolution of the partnership; other facts

(1) L. R. 3 Weekly Notes, M. R. 62.

such as exclusion from the shop have been alleged. For myself I rest my decision on the adultery.

Attorneys for the Plaintiff: *Messrs. Robertson, Orr, Harris,* and *Francis.*

Attorneys for the Defendants: *Mr. R. M. Thomas.*

B. L. R. Vol. V, p. 111.

(*Original Civil.*)

The 9th March 1870.

Before Mr. Justice Norman, Offg. Chief Justice, and Mr. Justice Markby.

MADHAB CHANDRA RUDAR and others,

versus

AMRIT SING, NARAYAN SING.

AMRIT SING, NARAYAN SING,

versus

MADHAB CHANDRA RUDAR and others.

Contract—Sale of Goods—Addition of "Fresh Goods"—Reference to High Court—Act XXVI of 1864, s. 7.

R. G. G. and Co. entered into a contract to sell certain goods to A. S., N. S., both Calcutta firms. The contract, which was in a printed English form, was taken on the 18th December 1868 by one M., on behalf of the firm of R. G. G. and Co., to obtain the signature of the vendees' firm. It was signed on their behalf by A. S. Neither M. nor A. S. understood English, and no explanation was given of the terms of the contract to A. S. at the time he signed it, but there had been negotiations between M. and A. S. as to these goods prior to the time when A. S.'s signature was obtained. It did not appear that the goods had been identified in any way by the purchasers who had merely seen a sample. After his signature, A. S. wrote in Nagri "goods fresh, grenadines five cases, at 2 annas 3 pie per yard." A. S., N. S., afterwards, on the 9th February 1869, paid rupees 1,000 as earnest money, which was accepted by R. G. G. and Co., who then allowed further time for taking delivery of the goods, which, however, A. S., N. S., finding some of the goods were stained, declined to do. R. G. G. and Co. thereupon brought an action for breach of contract in not taking delivery, and a cross-suit was brought by A. S., N. S. to recover the rupees 1,000 paid as earnest-money.

Held, that the words "fresh goods" after the signature of A. S. constituted part of the contract into which the parties entered, and by which they were bound.

Where a case has been heard by a single Judge of the Small Cause Court, and a new trial has been applied for, and the case has been re-heard by two Judges, the Court is bound, under Section 7, Act XXVI of 1864, to refer the case for the opinion of the High Court, if requested to do so by either party to the suit, though the Judges do not entertain any doubt or differ in opinion.

THIS was a case submitted, for the opinion of the High Court, by the first and second Judges of the Calcutta Small Cause Court, under Section 7 of Act XXVI of 1864.

The facts were thus stated in the reference:—"These two cross-actions were heard separately before the first Judge of this Court, and decided on the 7th April and 5th June 1869, respectively. New trials were applied for in both, and allowed on the 28th August 1869.

"On the new trial by consent of parties, the two cases were heard together.

"In these cross-actions, R. G. Ghose and Co. are claiming from Narayan Sing, Amrit Sing, damages arising from the latter not having taken delivery of certain specific goods, in accordance with the terms of an alleged contract, while Narayan Sing, Amrit Sing, claim a refund of a certain sum paid by them as earnest-money on account of a contract which they allege that R. G. Ghose and Co. have failed to perform.

"The pleas recorded in behalf of Narayan Sing, Amrit Sing, were:—

"1*st*.—Non-assumpsit.

"2*nd*.—That R. G. Ghose and Co. were not ready and willing to deliver such goods as they were bound to deliver according to contract.

"3*rd*.—Damages excessive.

"The facts established before us were the following:—

"On the 18th December 1868, Matilal, the nephew of the broker of R. G. Ghose and Co., having received from his uncle the contract in a printed English form, took it to the shop of Narayan Sing, Amrit Sing, in the name of his firm.

"Neither Matilal nor Amrit Sing understood English, and no explanatoin of the terms of the printed document was given to Amrit Sing by Matilal, except in so far as Amrit Sing was informed that it related to the sale of five cases of grenadines, at 2 annas 3 pie per yard, to be paid for on delivery, which was to be taken within three days.

"Below his signature, Amrit Sing wrote in Nagri 'goods fresh, grenadines five cases, at 2 annas 3 pie per yard.' There had been