SATURDAY, JUNE 7, 1902.

THE DAILY KLONDIKE NUGGET: DAWSON, Y. T.



Conglomerate

### ourt of Appeal Find Against the Opinion of the Gold Commissioner.

court of appeal at its sitting sday afternoon rendered a decisin the case of T. F. Sinclair. vs. rge W. Mitchell which reverses e judgment of the gold commission-The facts in the case as set out the spinion handed down by Mr. for Craig are as follows

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reaction is a contest over No. 19 merate pup, a tributary of ntana creek. Sinclair staked the m September 2, 1901, using as a a small tree which he flatted ugh he did not cut it off so that would be but four feet above the und as required by the regulains. On his notice of location he to neglected to write the number of claim and the name. At the time staked he was employed on the ernment road then being conucted in that vicinity and he ught he had but ten days in which record. Finding he could not get ay in order to make his applicaa for record he on the 12th re- plaintiff missed the chance to put ted the claim by adding the figure to the "2" already there, mak- taining a judgment of the record- Fire Boys Given a Run the date the 12th instead of the er. \* On the 21st the desendant Mitd staked the claim, making his sider at very great length the other cont on the 23rd. On the 24th Sin- question raised, namely, evasion of air applied for record and found the the statute, but I think the point is im already taken. Suit was begun well taken that it is not complying plaintiff, the grant previously is-, stake and hold his staking over until

to Mitchell being cancelled. Con- the last day for recording and then told, ing, his lordship says : Several questions were brought alive. This might be carried on ad ents to a the argument, the main ones infinitum and so defeat the very obin that there was no name or record within a fixed time." r, and that the tree was not "It was also argued that the alter-" but that he must record on or defacing or altering in any man- north of Col. Bowie's residence.

nd goes o play he child

form of affidavit. In this case he did the protection of the law. It was so. He exhibited no variation. He easy for Sinclair to cut off this tree gave no facts upon which the record- at the proper height. I do not say er could exercise any discretion and that he could have secured a post of o facts-appeared before the mining the size required though it can be recorder that the staker had made a imagined that if there were trees bona fide attempt to comply. The which he could have used as a legal hona fide attempt which is provided post some should have been found of for by the section means a bona fide the proper size. Yet, I would be disattempt to comply with the formal- posed to give him the benefit of the ities laid down respecting staking. It doubt on this point, for it is a wellis not bona fide in regard to record- known fact that in many instances it ing or anything else, but simply bona is impossible to obtain in the vicinfide as it affected the attempt which ity of the claims the stakes or posts the party made to stake. One could large enough to satisfy the require-

rather think the matter should have

been disposed of by the recorder. It

was not done, and if that argument

is a good one that he should have

been the first one to adjudicate, the

himself under the regulations by ob-

"It will not be necessary to con-

restake and keep his claim or staking

easily conceive of examples to illus- ments of the regulations in that betrate this. It has already been held half, but he is not excusable for not by this court that a slight varia- having cut off the tree and given to tion in the size of the stake will not his legal post the proper height. affect the validity of the staking. The There is some reason for this and the regulations require that a line shall non-observance of this condition can be cut out so that stakes may be easily be considered as misleading. seen from one end of the claim to The same thing must be said as to the other. If a high ridge of rocks his failure to state the name or numinterposes it would obviously be un- ber of the claim on his legal post fair to expect the staker to clear there is no excuse for it, and as it away this ridge of rocks in staking a is, I consider it a condition made ab. claim in the first instance, but does solute by section 14; this negligence the siding of a tree and the writing on his part is also to my mind fatal of a date and name on it constitute to his position. I, therefore, cona bona fide compliance ? How far sider that he was not entitled to a are we to allow stakers to depart grant under the circumstances, and I from the regulations and escape un- am in favor of reversing the judgder section 15 ? The door cannot be ment of the gold commissioner to opened up to all kinds of loose stak- that effect, and to uphold the grant

ing and the line must be drawn made to Mitchell." somewhere. In my opinion, this Gold Commissioner Senkler says "I think the appeal should be disparty did not make a bona fide attempt to comply with the regula- missed. I have nothing to add to tions and if this is the proper time my former judgment in this case "

for the court to determine that ques-tion I determine it against him. I DEPARTMENT CALLED OUT

Last Night

# the gold commissioner's court and decision was made in favor of regulations that a person should Robinson's Cabin on Steel Street Narrowly Escapes Destruction,

The fire department had its first g that the stakes were not law- ject of the regulations requiring the run last night in several weeks and the first fire since the arrival of off; that the plaintiff had no ing of the record on the post by the in at 7 o'clock from box No. 4 situto restake on the 12th, having plaintiff was an infraction of section ated at Steele and Albert streets, staked on the 2nd, and could 33 of the regulations which provides the blaze being in a lean-to adjoining

first staking. It was also argued ner a notice of any legal post shall The cabin was owned by Wm. t the alteration of the staking forfeit a sum not exceeding \$100, and Robinson and was occupied by him miawful under section 33, and there would be no question about the and Charles Caesar. How the fire mand. He was a pioneer in the fight the restaking was simply a put- operation of this section if the plain- originated is a mystery as both de- for the restoration of bi-metallism. white defraud the department and tiff obtained title by altering the clare that at the time there was no and was one of the first to raise his the regulations. The main marks of another; but the marks fire in the house at all. It was first voice against imperialism. the whether is which he altered were his own marks. discovered by Dan McCielland who Then, there is Governor McMillin.

ARE MANY DEMOCRATS

# Eligible to Fill Presidential Chair

Says William Jennings Bryan in the Commoner - Several Are Mentioned.

The editor of The Commoner is ometimes asked why he does not suggest some suitable candidate for president instead of pointing out obections to candidates named by the reorganizers. First, because he has no desire to pick out candidates or to influence the choice of the party as between men who believe in Democratic principles and can be trusted to carry them out; second, because between those who can be trusted the question of availability ought to be considered, and events largely determine availability. The convention is entitled to all the light it can get on the subject and it is nearly two years before the delegates will be chosen. There is no dearth

of competent and deserving men. One hundred names could be suggested of men qualified by experience and party service for the high office of president. While each would have weak points and strong points-for perfection is not to be expected-any of them would poll the party strength and receive the support of all who

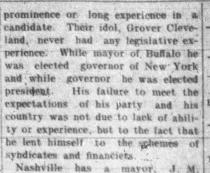
believe in the doctrines set forth in the platform. There are candidates galore and

they are not confined to any one state or location. To illustrate how of any honor within the gift of the Him in Perfect Peace.

people. While the senior senator's or in the White House.

of his party and forceful advocacy of Dawson. those reforms which the masses de-

nether the plaintiff's staking was a I have already indicated my opinion lives immediately in front of the After a long and illustrious service other of the Jaco ndition precedent to the alidity per time, or where the rights of third timely arrival of the big chemical Besides these who have represent are several Tennessee congressmen



Head, who possesses all the good qualities that Cleveland ever had and none of the bad ones. He went into office in the face of violent corporate opposition, but his first term was so universally popular that no one cared to run against him and he was reelected by unanimous vote. He is showing what an incorruptible public official can do. He is not only efficient as an executive officer, but he is scland on every public question. With

such a national candidate the party could make not only a bold and aggressive fight, but a winning fight if circumstances favored success. None of these men are aspirants

for the office, but they are mentioned to show how easy it will be to find candidates if the party will only be true to its principles and plead the cause of the common people.

The names suggested do not by any means exhaust the list, even in Tennessee, and every state has a num ber of men sufficiently tested to be worthy of public confidence. Among the millions who voted the Democratic ticket in 1896 and 1900 There are enough to choose from so that it will not be necessary to forage upon the Republican camp or invade the ranks of the Palmer and Buckner crowd to find a man of presidential stature -- William J. Bryan in The Commoner

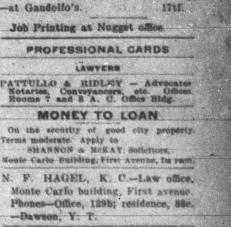
CHURCH NOTICES.

Presbyterian Church. --- At tomorrow evening's service the followingspecial music will be rendered ample is the supply of presidential Mrs Boyes and Mrs Dr. Thompson timber lookist the state of Tennes- will sing "O Lovely Peace," a duett see. She has two senators-Bate and by Handel from "Judas Maccabagus" Carmack-both of them loyal and and the choir will sing Dudley Buck's able Democrats and both deserving anthem entitled "Thou Wilth Keep

Methodist Church -- Regular service age might prevent his making an ac- at H a. m. and 7.30 p. m. At the tive campaign, he is not too old to evening service the chuir will sing be a faithful champion of the peo- Mendelssohn's "I Waited for the Chief Lester. An alarm was turned ple's interests whether in the senate Lord," a duet and chorus, and Miss Jones, Mrs. Matheson, Mr. Hugy Senator Carmack has earned his and Mr. McLean will sing "One rapid promotion by his extraordinary Sweetly Solemn Thought, a quarter in that manner keep his staking that any person disturbing any mark a cabin on Steele street a few doors ability, coupled with learless and by Ambrose. Tomorrow will be liter. steadfast adherence to the principles Heatherington's last Sunday

#### **A Family Smothered**

Laurel, Neb., May 25. - John Jacobson, his wife and infant child, were smothered to death by smoke and William Nuyder, a clerk, and an-



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bliance with the regu- that he could not keep his claim alive Robinson cabin. He observed smoke in congress he was made his state and has since been re-elect- ing rooms over the store, early toing conditions of section 15. The evade the regulations, but if his first used as a woodshed and upon in- ed. He has had more experience in day. Snyder, who lived with the ered staking claims is clearly staking were a total nullity, I do vestigating found the roof ablaze public life than Grant, Hayes, Cleve- Iamily, was awakened by the flames down and if nothing more were not see anything to prevent him from Before the department arrived the land or Roosevelt had when elevated and succeeded in rescuing the older and if nothing more were not see anything to prevent init itom before the department and the to the presidency, and more than child, but entrance to the sleeping ing of the plaintiff would be regulations, so far as I have gone, to cabin to which it was annexed was Tilden or Hancock had when nomin- apartments of the remainder of the dy bid. Where a statute pro- prevent a person amending his stak- damaged somewhat, though not so ated. that a thing be done in a par- ing so as to comply with the regula- much that the repairs will be of but And what is the matter with Bob alar way there is an implied pro- tions provided he does the same bonz hittle consequence. A frame cottage Taylor ? / He has served three terms financial free if small. tion against doing it in any oth- fide and without misleading third upon the same lot also received a as governor and has a national reway. Where compliance is made persons and records within the pro- severe scorching and but for the tation.

the act the neglect of the statu- persons have not intervened. Any al- would have soon been in ruins. The all the people of Tennessee there requirements would obviously be teration, of course, after record, occupants of the Robinson cabin suc-No rule can be laid down for would be on an entirely different ceeded in removing all their personal have made excellent records and who ming when non-compliance footing and the remarks I have effects, and beyond the destruction of would grow in strength with the the rule involves no invalidating made above would not apply to af the woodshed the damage inflicted is progress of a campaign. uences. for disregard or where, case like that.

egand involves nullification be-"It was argued by the plaintiff perienced in getting water from the d the fundamental one that it de- that the claim, being staked in the engine on account of the hose wagon the on the scope and object of the manner in which it was, was not va-ciment. The rule is more strin-cant lands and that, therefore, the from the engine house to the fire, where rights are acquired or party, alterwards staking had no thus necessitating a second trip to ted on certain regulations" and right to locate and could not take the fire hall for an additional supated on certain regulations" and right to locate and could not take the fire half for all address finally in the affidavit that the lands were un-ply. When the engine was finally in occupied and vacant. I think the operation the flames were quickly act a rigorous observance of lands should be tawfully occupied and subdued. as I have already held that the stak-

The plaintiff invokes the aid of ing was unlawful, I think, therefore, on 13 which provides that fail- that the lands were vacant within on the mart of the locator to the meaning of the regulations. on the part of the locator to the meaning of the regulations. of machinery would find it to their advantage to apply to The Canadian not be deemed to inval date the ant, reversing the judgment of the Bank of Commerce, Whitehorse. Be-I upon the facts it shall ap- court below."

the mining recorder that Mr. Justice Dugas in his decision supplies, they have for sale : as been on the part of the lo- concurs with Mr. Justice Craig and 1 Walraths 40 Horse-power, Horsethen fide attempt to comply finds that the staking of Sinclair was zontal Engine. provisions of the regula- not in accordance with the regula-I that non-observance of the tions. After quoting section 15, uns hereinbefore referred to der which Sinclair sought protection Boiler. a character calculated to for his improper staking, his lordship other persons desiring to lo- says :

This section requires some "The interpretation which is to be tation. A discretion is vested given to this clause is that on acmining recorder and the facts count of the difficulties which the loto be considered are to be cator may find, himself in whilst at-

at to him. What facts ? It tempting to fulfill the conditions of Hoist, etc. I mean the facts surrounding the law in staking, if a bona fide ator location and these tempt is made to comply with such build be presented to the min- regulations, and if the non-observorder by the locator when he ance is not of a character to misfor acceptance of his staking lead, then the locator should be pro-

fudicate, as it seems he is it is clear that if otherwise he can Buck, not Rufus Buck as erroniously. to do under this section, fulfil the conditions fixed, more par- stated in yesterday's paper, of havthe facts are presented to ticularly, by section 14, and that by ing violated the fire ordinance by

As a matter of practice, no neglect, or other reasons, he does having a stove pipe in bad repair, aker swears to the usual not do so, then he is not entitled to was dismissed.



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#### Charge Dismissed.

In Magistrate Starnes' court this try. How can the mining re- tected and obtain his grant. Whilst morning the charge against Frank



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