

IMPORTANT JUDGMENT

Handed Down by Gold Commissioner

Lapsed Ground is Open to Relocation Under Any and All Circumstances.

An important judgment was rendered in the gold commissioner's court yesterday which will have an important bearing upon many future cases. In brief it is decided that ground once granted becomes crown property and is open to relocation, if representation is not performed, notwithstanding that it may have been covered by second stakers during the life of the original grant.

The following is the judgment: The plaintiff, Bradley, staked the "Little Giant" mineral claim on the right limit of American gulch on September 17th, 1902, and recorded the next day.

The defendant H. E. Bowcher staked the "Providence" mineral claim on August 24th, 1900, and recorded the next day.

One Charles G. Finnie staked the "Providence No. 2" mineral claim on August 26th, 1900, and recorded the next day, and subsequently transferred an undivided half interest in said claim to the defendants, and the defendant Gilbert Sinclair staked the "Providence Fraction" on August 21st, 1901, and recorded the next day.

The three last mentioned claims were surveyed by Mr. Fawcett, D. L. S., in August, 1901, and on October 11th, 1902, the defendants first advertised notice in the Yukon Official Gazette that in sixty days they intended to apply for a certificate of improvements for the purpose of obtaining a crown grant for the ground comprised within said survey. The plaintiff entered this protest on December 9th last claiming that the defendants three claims each covered a portion of the ground comprised within his claim the "Little Giant."

The plaintiff's contention is that he located precisely the same ground that was first staked by one John McDonald on July 2nd, 1900, and recorded on July 5th, 1900. Mr. McDonald gives evidence both as to his own staking and to that of the plaintiff Bradley. He states positively as to the original position of his own location posts, that he was with Bradley, at the time Bradley staked and that Bradley staked the same ground that he did. Mr. McDonald not having performed any representation work on his claim it expired one year after he recorded. Mr. White-Fraser made a survey of the plaintiffs' location according to the location posts as shown by McDonald and the plan of said survey filed as exhibit "1" in this case shows the conflict with the defendants' claims as surveyed by Mr. Fawcett. It also appears from the evidence that Bradley used the same location posts as McDonald and his notices written up on the posts, claimed, the same ground. Evidence was brought by the defendants to show that the number two post of the "Little Giant" was not in the position as shown on Mr. White-Fraser's plan until a short time previous to his surveying the claim, also that the number one post was in an absolutely different position, but Mr. McDonald's application made on July 5th, 1900, described his No. 1 post as being about 15 feet below the line dividing claims 3 and 4 on American gulch where Mr. White-Fraser found it and the draft plan attached to McDonald's application shows his No. 2 post to be approximately in the position as shown on Mr. White-Fraser's plan. I have come to the conclusion that Bradley staked the same ground that McDonald did and that Mr. White-Fraser's plan is a correct one of the "Little Giant." The location posts are produced in court, and it appears that all three are smaller than the size required by the regulations. McDonald gives evidence of rock that he considered contained sufficient mineral to justify his staking a quartz claim and from this evidence I am of the opinion that the defects in his location are covered by section 23 of the regulations. I hold, therefore, that his location is valid. As to the Bradley location he used McDonald's posts, his notices upon the posts were defective but I am of opinion any subsequent locator would not be misled by them and could readily tell what ground he claimed. He (Bradley) relied on the same discovery of mineral as McDonald. The word "relocation" used by Bradley in his application and objected to by the defendants is, in this case, a word of description. I do not think it can be construed in any other way and as such would not invalidate the claim. I have come to the conclusion that his location is valid.

There is no doubt from the British Columbia cases and from the case of Colton vs. Mainly decided in the supreme court of Canada that where a claim is located over an existing claim that portion of the subsequent location covering the prior one can form part of the subsequent location on the expiration of the prior location. The "Providence" and "Providence No. 2" were both staked during the existence of the McDonald location. All three location posts of the "Providence" are within the McDonald location, only a small portion of the four corners of said location being outside the "Little Giant," said corners being entirely separated from one another. The "Providence" location must be declared to be invalid and must be cancelled on the records. The plan of survey of the "Providence No. 2" must be amended so as to exclude that portion of the location that is within the "Little Giant" as shown on Mr. White-Fraser's plan (exhibit "1.")

The "Providence fraction" was staked after the McDonald claim had expired and before Bradley staked. The plaintiff, therefore, has no right of action as far as this fraction is concerned and the plaintiff is not entitled to that portion of the "Little Giant" that conflicts with the "Providence fraction" as shown on exhibit "1" above referred to. I have considered the question of the length of time the defendants held their claims before the plaintiff staked and the work done by them on the ground in dispute. The principle upon which this case is decided works a hardship to a certain extent upon the defendants owing to the difficulty of telling the exact position of prior locations that can be taken advantage of by subsequent locators but I am of opinion the work done by the defendants on the ground in dispute in this case is not sufficient to effect the principal above referred to.

ELDORADO AND BONANZA.

Mr. and Mrs. Henry Willet who were running the Colorado road house on No. 60 above Bonanza this winter have returned to No. 11 above.

Carl Nilson of No. 22 below Bonanza had the misfortune a few days ago to fall down a shaft a distance of 15 feet. He received a bad shaking up but no bones were broken. He went to work in a couple of hours and worked four days when one of his legs commenced aching. When he struck the bottom his leg struck a bucket and as a result he is now laid up. It may prove worse than anticipated.

John Lund of No. 26 above Bonanza had a bad runaway last Saturday night. He had a horse and cutter belonging to Mr. Garvie of the Forks. Just above the Forks the rig tipped over throwing Mr. Lund into a dump and inflicting several bad cuts in his head and hands. He was taken to the Grand hotel where Dr. McLeod dressed the wounds. Mr. Lund is suffering considerable pain though he will recover.

Mr. Chas. M. Farrar and bride have returned to their home on Oro Fino hill. Mr. Farrar owns one of the best plants on the hill and will resume operations in a few days.

Mr. R. M. Nelson, proprietor of the Grand hotel, at Grand Forks, has as neat and up-to-date establishment as one would wish to see. The rooms have all been fixed up and re-furnished. The bar is one of the swiftest at the Forks. Mr. Nelson has a large barroom, everything is neat and clean and certainly presents an inviting appearance. The well known soir d'ough John Moe is tending bar for Mr. Nelson, which alone insures a good trade.

Mr. Geo. H. Gibbs returned from the outside last Sunday. Mr. Gibbs has a store on No. 17 Eldorado.

Mr. Sutherland Murray of No. 69 below Bonanza made a trip to the Forks and Eldorado last Sunday.

Mr. Wm. Rowe of No. 24 below Bonanza visited at the Forks last Sunday.

Mr. John Kehoe, the upper Bonanza poet, is in town today.

Last Monday night Louis Lassen a Gold Hill miner while working in a drift had one of his feet badly hurt. A large piece of frozen muck fell down striking his foot and spilling it so badly that he will be laid up several weeks. Dr. McLeod of the Forks is attending him.

Mr. H. Douglas the well known hotelkeeper of Dawson returned from the outside with his wife today. Mr. Douglas was proprietor of the Great Northern hotel in this city for three years.

Mr. Alex. Larsen who recently returned from the outside has purchased a half interest in the Bonanza saloon at Grand Forks. Mr. Larsen is one of the successful operators of the early days in the Klondike, having owned property on Gold Hill where he made his fortune. His partner Mr. Lawrence Olson is working property on Gold Hill at present. The new owners of the Bonanza will make extensive improvements in the near future.

Mrs. Mary Davis, proprietress of the Elly roadhouse, is able to be around again after several days sickness with the lagrippe.

MISSING.—It there is any one who knows the whereabouts of P. Chris Peterson please notify Mrs. S. J. Peterson, 12 Schuyler avenue, Kankakee, Illinois, U.S.A.

Butter, two-and-a-half pound roll, only \$1.00, at all stores.

WAS GRAND SUCCESS

Fancy Dress Carnival At the Rink

Crowded With Spectators and Fantastically Garbed Skaters in Brilliant Costumes.

The Athletic rink last night was a scene of splendor that has never before been equalled since the construction of the building. It was the occasion of the second fancy dress carnival, or really it might have been called the first as the initial attempt at such diversion was held at a time during the winter when the thermometer had all but gone out of business, and there were but very few who had the temerity to don fancy costumes in such frigid weather. Last night, however, the temperature was all that could have been desired. It was not so warm as to cause it to be unpleasant skating, nor was it so cold as to make it dangerous to appear in light and fantastic garb.

The galleries and the lower floor were filled with spectators who cheered, laughed at and chided the merry masters, many of whom were so disguised that their most intimate friends failed to recognize them. To add to the attractiveness of the scene the management of the rink had caused to be hung multi-colored lights which from time to time were switched on and off. Egbert's Royal Military Band was present and until nearly 11 o'clock ground out waltzes and two-steps until further orders.

Many of the costumes were very pretty, many were striking and not a few were ludicrous, the whole presenting a kaleidoscopic picture that was pleasing in the extreme. Among the most novel and interesting costumes were the following:

Jack Elbeek was perfectly made up as "Happy Hooligan" even to the milk can on top of his head.

Captain Bennett, D. G. Edwards and Frank Malby played the fools in motley. Their clown makeup was excellent and they created all sorts of merriment.

Jake Kline impersonated "Aunt Chloe," a colored lady who was of the quality. With the assistance of plenty of hay and cotton she succeeded in making for herself a ravishing figure.

Mr. King and Mr. Clough depicted "Eddies" fresh from the Emerald Isle.

Willie Bittner would have turned green with envy could he have seen the makeup of W. B. Ross as "Uncle Josh." He even had hayseed in his hair.

F. S. McFarlane was "Uncle Sam" complete with the tall hat and short-corded trousers.

One of the most comical characters was that of young Master R. P. McLennan Jr., who appeared as a "Brownie." His brother Purves was splendidly made up as a little-heathen Chinese.

H. M. Martin was one of the pirates in the opera "Pirates of Penzance."

"Hugh McDermid was clad in a suit of khaki."

F. H. Sherwood wore the uniform of a member of the Dawson Rifles.

Chart Malby was a sweet young thing just sixteen, so well made up that none of his friends knew him.

Hugh Rose enacted a member of the colored "400."

J. S. Cowan looked distinguished as Prince Henry.

Albert Forrest imitated Chris Moran in the character of Rip Van Winkle.

Mr. and Mrs. S. B. Waite wore sunflowers as floral decorations.

Bennett James, Mont Malby and Mr. Hickey pressed the season's tribute by appearing in summer costumes, tennis flannels and straw hats.

Alex. McLachlan was "Rain-in-the-Face," a mighty Sioux chief.

John Mackinnon appeared as a Spanish bull fighter and Jas. Mackinnon as a freeman.

Tom Haddock was the only original short waist man.

Walter Wilson impersonated a character well known to all the residents of Puget Sound, that of Col. James Hamilton Lewis, he of the sun-kissed whiskers and Chesterfield manners.

Earl McDaniel was clad as a jockey.

Percy Overton was resplendent with gold lace and gilt buttons in the character of a general.

Fred Forrest appeared as a ballet dancer.

G. R. Elderkin was a private in the Australian mounted infantry.

C. B. Burns carried with much dignity the part of a gentleman of the seventeenth century.

Miss Strait received much attention as a Daughter of the Regiment. Miss Stone was garbed in the picturesque costume of the frontier, a fitting companion for a cowboy.

Miss McDonald lacked only the halo to have made a perfect St. Cecilia.

Miss Nellie Mutch and Miss Lucille Latimer were two dainty little school girls in red.

Miss Dena Russo was so attractive as Marguerite that one could not

have wondered at the temptation of Faust.

J. G. Jensen took the part of Lieutenant Hobson.

Mrs. Frank Malby made a pensive sweet Yum Yum.

Mrs. E. J. White and Mrs. Cloes were dainty flowers from the land of chrysanthemums.

Mrs. H. A. Stewart in cap and gown looked the sweet girl graduate just out of Vassar.

Mrs. W. F. Thompson was attired as a French maid.

Mrs. Bailey was a Scotch lassie direct from the Highlands.

Mrs. L. E. Robertson appeared in the character of "Snow."

Mrs. E. R. Roberts wore a stunning costume of every hue of the rainbow representing the Northern Lights.

Mrs. Hebb and Mrs. Shuman were Red Cross nurses.

Mrs. J. C. McLagan was attired as a summer girl.

Mrs. Devig looked charming as a Gipsy Queen.

Mrs. E. G. Crisp made a dainty little sailor girl.

Mrs. George E. Ames was a school girl fresh from her studies.

Mrs. Jack Fair was winsome as a lady journalist.

The little folk were out in full force and enjoyed the occasion fully as much as their elders. Among them were Glennie McLennan who appeared as "Snowflake," Olive McLennan as the military girl, Lorene Ames as Little Red Riding Hood and Cecilia Barry as the American girl.

The enjoyment of both masters and spectators was kept to the last and it was with regret that the warning sound of the bell clearing the rink was heard at nearly 11 o'clock.

SKATES FAST MILE

Albert Forrest Makes Another Record at the Rink.

At the rink Saturday night previous to the hockey match, Albert Forrest, winner of the three-mile skating championship, went a mile to establish a record for the Yukon. W. H. B. Lyons officiated as timekeeper and Dr. Edwards was scorer. The ice was in excellent condition and young Forrest hit a good pace from the very start. His time for the mile—fifteen laps—was 3:24 1/5, which is but a very little better than he did in the last heat of the three mile race, which was reeled off in 10:35. On account of the shortness it is doubtful if the time will be lowered by anyone. Those who have seen Forrest skate state that on good ice on a straight away course he could tear that time all to pieces.

After Forrest had made his record young Hugh McDonald, a nine-year-old son of Angus McDonald, went after Forrest's time. Considering his age the lad made an excellent showing. He has good wind, a long stroke, longer than Forrest's, and possesses great possibilities in the way of speed. In his race when he had reached Forrest's time he had just two more laps to go. His time was 3:50.

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THE NIZINA COUNTRY

150 Miles Inland From Valdez

Attracting Attention—A New Letter From F. J. Golden of Valdez.

Mr. Theodore Snow by the last mail received the following letter from Frank J. Golden, formerly of Dawson but now located at Valdez. The letter contains the most comprehensive account of the people and prospects of that country yet received in Dawson and is herewith presented in full.

Valdez, Alaska, Feb. 21, 1903.

Friend Snow—Yours of Jan. 15th to hand—I was glad to hear from you and will answer immediately. I have been here about three months, and have been in the restaurant business since Dec. 5th. Business in this camp has not been very good on an average this winter. Sometimes good and sometimes very bad. When I reached here there were only three restaurants, now there are ten places where meals are served, and not much more business than when I started in. When a boat arrives business takes a spurt and in a few days quiets down. Within the past two weeks several boats have arrived, bringing in all about 500 people, and things have been lively. A good many are starting inside and some have gone back and now business is dropping off again.

Several large outfits have arrived on the last boats, all going into the Nizina country. Among them are the Bell & Menach outfit, who are taking in 300 men and a stock of supplies to last this summer. They are hiring their men under contract at \$100 per month from the time the contract is signed until the summer work is over.

Hugh Madden is here with 700 gallons of whiskey which he is going to take into the Nizina.

McAlpine & Johnson of Dawson are taking a saw mill outfit in and J. H. Houston is also taking a mill outfit in.

C. E. Wickadel and wife are here and have opened up a first class restaurant.

Frank Buck was here in the fore part of the winter but went inside.

We hear very little here in regard to the proposed railroad and the general impression here now is that the road will not be built this year.

There is considerable copper in the Nizina country, also all along the Copper river. As I came through the country I saw Indians with arrows, the head of which was made out of pure native copper. The Indians make the arrows for sale, not to use in pursuit of game.

The Nizina country is as yet only a chance. Nobody is sure as to whether it is rich in gold or not. Some gold has been taken out but not very much. The country supposed to be gold-bearing is very extensive. I am going into the Nizina country some time next month and if the country is good I will write and let you know.

I would not advise anybody to give up anything good to come to this country, but if a person is foot-loose and nothing in sight there is a chance in this country.

Valdez will always be to this country what Skagway is to the Yukon—a supply point. The Nizina country is about 200 miles from Valdez and in pursuit of game.

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SECOND AVE.

the Slate creek country is 240 miles

About \$150,000 in gold dust was taken out of the Slate creek country last year. Slate is a tributary of the Chetochena river.

Very little work is being done around here. Wages are low. Several business houses are not paying expenses. There are lots of saloons here.

The oil fields around Kayak and Yakatak are said to be good and are attracting some attention.

I suppose Dawson is very quiet this winter. Several of the gamblers and sporting people of Dawson are here.

Red McConnell is running a hotel here. He has bought an outfit some claims in the Nizina country. Well, Snow—I will close. Reply to receive a reply to this, I am with regards to enquiring friends.

Sincerely yours,

F. J. GOLDEN

Power of Attorney Blank for Tanana-Nugget Office

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