
REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ex. C.]

[May 29.

BONANZA CREEK HYDRAULIC CONCESSION v. THE KING.

Mining regulations—Hydraulic lease—Breach of conditions—Construction of deed—Forfeiture—Right of lessees—Procedure on inquiry—Judicial duties of arbiter.

Under a condition for defeasance in a lease of a mining location, made by the Crown in virtue of the hydraulic mining regulations of 3rd December, 1898, a provision that the Minister of the Interior is to be the "sole and final judge" of the fact of default by the lessee does not entitle the Crown to cancel the lease and re-enter until the fact of such default has been determined by the minister in the exercise of the functions vested in him after an inquiry made in a judicial manner and an opportunity has been afforded to all parties interested of knowing and being heard in respect to the matters alleged against them in such investigation. *Lapointe v. L'Association de Bienfaisance* (1906) A.C. 535, and *Edwards v. Aberayon Mutual Ship Insurance Society*, 1 Q.B.D. 563, referred to.

The lease provided a forfeiture for breach of conditions "other than that referred to" in the fourth clause.

Held, that, of several conditions in the clause in question, the exception applied only to that providing for forfeiture on failure by the lessee to make specified annual expenditures on the leased premises, of default in which the minister was to be the sole and final judge, and in respect of which his decision predetermined the rights of the lessee.

Quare, per IDINGTON, J., whether there was not sufficient evidence in the case to shew that there had been no such breach of the conditions as could work a forfeiture of the lease?

Appeals allowed with costs.

Chrysler, K.C., *Belcourt*, K.C., and *J. A. Ritchie*, for appellants. *Newcombe*, K.C., and *Shepley*, K.C., for respondent.