

# THE KLONDIKE NUGGET.

VOL. 2 No. 13

DAWSON, Y. T., WEDNESDAY, FEBRUARY 15, 1899

PRICE 25 CENTS

## NUGGET HURRAH!!

### The "Tramroad Without a Tram" is Knocked Skyward.

#### EVERY DOLLAR THEY COLLECTED WAS COLLECTED ILLEGALLY

#### The "Nugget's" Fight for the Miners Results in a Complete Victory.

#### The Honorable Court Decides Against O'Brien & Henning—It's "All Off" With the Tramroad—The Yukon Council Cannot Grant Such a Permit as Was Claimed by O'Brien—The People Must Be Protected—First Blood Claimed for the "Nugget."

At last the big tramroad fight is ended, the lawyers are taking a rest and the public is to be allowed to wend its way up Bonanza creek without contributing their hard earned wealth to fatten the holdings of Mr. Thomas O'Brien or Mr. Hill Henning. It was a long protracted fight, and every day it was continued, added to the total amount mised illegally from the pockets of the miners, but at last the victory is ours and we invite the people to share it with us. No more will the "tramless tram" "grait" its "grait" upon the people—unless, indeed, the promoters of the scheme, having first secured the approval of the local authorities should succeed in obtaining a special charter from Ottawa before the two NUGGET representatives, now on their way, can arrive there. No more will penniless prospectors be turned back by pitiless toll collectors and private patrol men, the hirelings of a self-seeking and money-grabbing company. But there is more to the decision than the mere cessation of the illegal taxation of the people by a self-constituted body of tax collectors. The decision is far more reaching and means that every dollar paid in tolls has been forcibly lifted from the pockets of an unoffending public and can be recovered very easily by the usual proceedings. The NUGGET's suit to recover \$125 charged for the passage of a load of freight was the nature of a test case, and the eight-column decision handed down on Tuesday morning will in no wise have to be repeated upon each suit for recovery. The cost of recovering that dollar and a quarter has of course been out of all proportion to the amount recovered; but neither is it necessary that this expense should be repeated now that the case has been won.

But the case is even wider in its significance than even the recovery of money illegally extorted from defenceless miners. It means that never again will local schemes of this kind go through. No more grabbing monopolies of which the first we hear is when somebody says "Halt!" "Shell out!" No more need the patient "musher" fear the sudden appearance in the center of the road of some arrogant monarch of all he surveys to order the said "musher" off the earth unless he can show a permit to stay on it, signed by Tom O'Brien or his earthly agent.

If that permit given by our local council had held, just think what it meant to everybody. What was to prevent a permit to another company to run a parallel "tramroad" without a tram, and then another and another until the valley was blanketed and the miners driven to the mountains for a passage way to their claims—or what was to prevent even the hills being covered with tramless trams until the miners should have to give up a half or more of their claims for permission to go to them. It is the wrong principle of these monopolies which the NUGGET has always and will always protest against. As though we were not already taxed sufficiently they must depute to private individuals the privilege of taxing us further—that is what we object to. This farming out of the tithing privilege; this creating of a favored class to live by the exactions they are empowered to extort from us; this creation of parasites to live by preying upon the weak and unorganized masses; this putting of governmental road building duties onto the shoulders of private companies who assume the tasks upon the consideration being granted them a privilege of exacting a portion of their wealth from every individual they can scheme by low bridges and in other ways into their tolls—these are the things we object to, and in defense of the people's rights we purpose always to be heard.

The decision is much too long to be printed in full in these columns, yet is well worth reading as showing the workings of a trained mind

in arriving at a just conclusion. The reasoning is forceful, the premises clearly put and the conclusions inevitable. It is a thoughtful document and lawyers and laymen alike are expressing the most favorable opinions of both its profundity and its wisdom.

The thoughtful preparation of the case by the promising firm of barristers of Pattullo & Ridley; the research shown in every excerpt of law advanced; the forethought displayed in the arrangement of every fact and argument and the powerful and most convincing way in which Mr. Pattullo marshaled the case for the plaintiff before his lordship, all go to show that in the recent arrival of these two young gentlemen, the bar of the Yukon Territory, not only has received a most valuable addition, but is destined also to receive an added lustre from their presence. The NUGGET stops to congratulate the young men upon the quality of their work and the evidences shown of their careful legal training. A bright future is undoubtedly theirs, and they are warranted in setting their mark high upon the ladder of ambition. A high order of success is destined to be theirs and their case in the supreme court of the Yukon Territory as presented to his lordship by Mr. Pattullo, may safely be left to the most careful scrutiny of the legal lights of Canada. We congratulate you, gentlemen!

In a masterly manner the evidence given by the opposing sides of the case is reviewed, and the law quoted upon each point raised. His lordship winds up his summary with:

"Therefore, the only question which has to be adjudged upon is, whether on the 21st day of November, 1898, the defendants were legally authorized to establish such a toll gate, and force people who intended to travel on the road which they had built, to pay therefor."

After quoting where the law governing this question can be found, his lordship continues: "I must say, immediately, that to decide this case I do not consider it of much importance to dwell upon the fact that upon the land followed by the road in question there was or there was not a trail; in fact, what is considered and declared to be a trail is the pathway which is established by the travellers during the winter season on the old course of the creek, as the same offers, generally, a more uniform level and better roads."

After speaking of the old summer trail, and expressing a favorable opinion of the defendants' roadway which he says he has visited personally, the judge continues:

"Whilst on the other hand, there is no doubt that some of the bridges which the defendants had to build on this creek interfere with the ordinary traveling of the past, those bridges being too low either for foot travelers or for vehicles, it does not seem that it otherwise interferes with that winter trail. But, as I have said before, the main or rather the only question to my mind is the legality of the position of the defendants towards the public."

After quoting from the various laws bearing upon the subject he gives paragraph C of section 8 of the Yukon bill, which is quite pertinent:

"That no ordinance made by the governor in council or the commissioner in council shall appropriate any public money, lands or property of Canada without authority of parliament."

Commenting upon this he says:

"All the lands of this territory are, until dis-

posed of with the authority of parliament, the property of Canada."

Further on his lordship says: "I have not been able to find anything else than the Lands Titles Act of 1891, and the amendments thereto, which provides for the disposition of the public lands for agricultural and mineral purposes, for timber grants."

... which has the effect of generally disposing of the lands so disposed of, either absolutely or for a term only, from the public domain to private individuals, corporations or to the territories, and nowhere can I find that until then the local authorities in the Northwest, and consequently the Yukon Council, in the Yukon Territory, have the right to make any such disposition or to grant thereon any privilege which would have the effect as in this instance, of exclusively giving the possession and enjoyment of a tract of such land, either to private individuals or to corporations."

His lordship then goes on to quote a special section (108) which provides for trails, etc., and says: "and surely if such a proceeding and authority (the sanction of the minister of the interior) has to be obtained for the trails or roads already in existence, the same or similar authority at all events, has to be obtained before the Yukon Council can be considered to be vested with the power of establishing new roads, and more so of giving special privileges to private individuals and corporations to establish and control them."

The following excerpts from the opinion of his lordship are also to the point: "And now if it is considered with what jealousy the rights of the public are protected by all process of law against any encroachment by any private individuals or corporations, it is more impossible to come to any other conclusion than that no such power as the one claimed legally exists." This refers to the powers of the council and commissioner to grant the O'Brien permit. "In reading the letter of the commissioner under which the defendants claim their rights, it is evident that he has guarded himself against conveying the idea that the privileges were given 'de plano,' for after having referred to the informal advice of his connections, he declared that this letter is given with the express understanding that the local government had no such power, etc., etc."

The following is really the gist of the whole matter and supports the contention of the NUGGET:

"And, as a last argument, I must say that I know of no general law which permits, by orders in council, or by the will of any members of the council, to interfere with the private individuals in this territory more particularly. And the fact that in this case, privileges are claimed which would necessarily encroach upon the special and private interests of miners and others actually in possession leaves me in no way to doubt that the defendants' case in no way be sustained, otherwise than by a special charter obtained at Ottawa. 'In the hole, I believe that the defendants have established that toll gate illegally, and that they had no right to invoke any title to force the plaintiff's servant to pay that \$1.25 to pass any point of such land belonging to the crown.'"

Judgment is awarded to plaintiff in the sum asked, together with the costs of the suit.

#### POLICE COURT ITEMS.

The story of "Poor dog Tray" was again enacted in the experience of Joe Matthews, the Bismark man, who were found occupying Messrs. Black's cabin at the time it was raided. However, they were able to show that they were in no wise entangled with the promiscuous pugilist and the charges against them were dismissed with a caution from the court to keep better company in the future.

John Uhlman and Bernard Black are or were partners in the sense that they came to the land of gold, premise together and inhabited the same cabin on the hill back of the capital city. They got along pretty well for a while, but the usual clash finally came, a family jar was precipitated and the two men engaged in a mortal combat, with Uhlman handling a revolver in a most dangerous way. Loss of life was somehow avoided and next day Uhlman swore out a warrant for Black's arrest on a charge of assault with intent to do great bodily harm. The true state of affairs developed at the examination and as a result the charges were turned to the misfortune of Uhlman, who lost his action and was himself obliged to plead to a charge of threatening to kill. He was held for trial.

#### A Woman's Wrath.

A sensational episode found the scene of its action Monday at the store of the Northwest Trading company, when Mrs. Joseph Schwartz, with fire flashing from her coal-black eyes, and an improvised rope whip in her hands, suddenly appeared on the scene and made an effort to apply her weapon to the retreating figure of Louis Allenberg, one of the proprietors. The gentleman's agility and masterful strategy defeated the design of the angry lady, and she was perforce content with a rigorous tongue lashing in lieu of the other means with which she sought to allay her wrath. The incident is due to the fact that Mr. Allenberg, while conversing recently with Robert Blef, passed a remark about Mrs. Schwartz that was derogatory to her dignity in the gentleman's estimation.

#### Cabin in Flames.

Fire broke out on Thursday night last in a cabin at No. 32 below upper on Dominion, occupied by Dr. Cushman, Harry Irvine, W. S. Bunn and Fred Wombell. The occupants were assisted by their neighbors, but nearly all their private effects were destroyed, while the cabin was wrecked.

## SPECIAL CORRESPONDENCE.

### The Nugget Envoys Reach Holbrooks, No. 99, on Their Journey.

#### Breaking Trail All the Way—New Trail on the Way in—Who Were the Government Officials Endeavoring to Obtain Discounts?

Holbrooks, Y. T., Feb. 4, 1899.

We left Arctic Express Co.'s station below Bertha Creek in a blinding snow storm, and no evidence of a trail to be seen anywhere. Accompanying us was Theodore Goaring, who operates a road house 42 miles above Fort Selkirk, and a lonely traveller, without a single pound of provisions or even a blanket, who is making his way to the coast. However, with considerable difficulty we finally made Little Bertha creek, six miles, and although Mr. Green, the owner of the claim located at the creek's mouth, has sleeping accommodations for travellers, he serves no meals, but in a few moments had a pot of hot coffee ready for our correspondents—a most welcome relish, we assure you—after driving through the pelting snow, and would accept no compensation of any kind. From there the trail leads to what is known as the "Big 3," so named because of four cabins there located, and five miles above Bertha creek. They are operated by Dr. Root, and in which Mr. Frank Holbrook of this place is interested. The quality of the food furnished there is A. 1. From there we were able to reach the Northwest Express station in charge of Messrs. Burns and Roberts, where shelter was taken for the night. It was a question of breaking trail all day yesterday and today almost to this point, although we merited. Paine of the Bennett Lake and Klondike Navigation Co., and later three other parties on their way into Dawson from the outside. Some of them left Skagway on January 14th. The N. W. M. P. were met also this morning taking down 600 pounds of mail, showing that every effort is being made by that department to advance the mail facilities, and poor fellows, they are having a hard enough time of it. The trail approaching this point is not in good condition, especially on the river, the ice on which we broke through twice this morning. At this point we met two of the N. W. M. P. with a horse team, bound in. They report considerable difficulty above here, and the police report it unsafe to travel above here at night or in the dark.

You can well imagine the pleasure afforded on our arrival here to find presiding as boniface, the genial proprietor of "99," whose odd numbers have been seen by thousands at the "Scales" below the Chilkoot summit, Mr. Frank Holbrook of Portland, Ore. and he's the same old Holbrook as of old. Whole souled, rustling and busy as ever. Has a large house comfortably located, and comfortable within, and with accommodations for 75 persons and a cache that seems like a footless stocking—no hole in it, and puts up a meal that is simply all right, and to which your correspondents did ample justice. He has good food galore.

#### DISCOUNT FOR CASH.

Here's a good one and shows that the NUGGET, no matter where anything out of the ordinary happens, is sure to know all about it. It seems Her Gracious Majesty must be in rather straitened circumstances when we relate the following incident, and it would be interesting to know who the officials were, who, representing the government, endeavored to obtain a discount for cash from a certain road house for meals and lodgings. It seems that a party of government officials, occupying very prominent positions, stopped at a certain road house between Fort Selkirk and Dawson. Their bill amounted to considerable the following morning, and the subject of payment, and how to be made, was discussed the evening before. Staffing to the road house keeper who they were, asked him if he would accept an order on the N. W. M. Police. This was agreeable. Then they proposed currency instead of the order. This was, of course, preferable to the road house keeper. The price of meals was \$2 and bunk \$1 each. Then the official proposed to settle in currency, provided the road house man would make them a discount for the cash. This was promptly declined. Now the question is, what does Her Gracious Majesty the Queen think of her representatives going along over the ice trail, and dickering for discounts on the price of road house meals and bunks, when some poor fellow is trying to eke out a little existence, after sledging his grub hundreds of miles and the labor of building his cabins? If the discount had been granted, would the Imperial or Dominion Exchequer have been credited with the difference? And, at any rate, what does Her Majesty think of such a proposition?

#### A Telegraph Line to Dawson.

The British Columbia Review says: The necessity of a telegraph line to Dawson city and other points in British Columbia is thoroughly impressed on one when it is realized the great expenditure the Canadian government incurred on several occasions to send special messengers to the officials at Dawson—in each instance a special steamer having been chartered. The line about to be constructed is expected to be completed in a few months.

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