

upon No. 1 post, the initial post, the "approximate compass bearing" of No. 2 post is not given as required by the Act. On his cross-examination the defendant admitted that the compass bearing, "south-easterly," which is written on No. 1 post, does not give the true direction, and said that instead of being south-easterly the bearing should be a "little north of east." While admitting that the compass bearing is misleading, he states that it would be very easy to find the location line because of the reference in the record to the adjoining Freddy Lee claim. He explains his mistake by saying that he had no compass at the time. The answer to that is that he should have had one. The plaintiff contends that the proper bearing is "north-easterly," and according to the evidence of Mr. Heyland, P. L. S., who made the survey for the defendant, the compass bearing, that is magnetic, (under which he states surveys according to the Mineral Act are always made) would have been N. 74 degrees, 9 minutes east. I have come to the conclusion that south-easterly is not the "approximate compass bearing" within the contemplation of the Act, and it is quiet clear that the plaintiff in this case was misled by that description. Further, I do not think that where an approximate compass bearing is not given this plain requirement of the Act can be cured by a reference in the record to another claim. But the defendant claims the benefit of s-s. (g) of s. 16 as amended by the Mineral Act Amendment Act of 1898. Assuming for the moment that the defendant is otherwise entitled to the benefit of this section, so as to cure his non-observance of the formalities required, I am of opinion that in this particular case he does not come within the scope of the section, because I find the non-observance was "of a character calculated to mislead other persons desiring to locate in the vicinity," and did in fact mislead them. But he also claims the protection of section 28 as curing the irregularity. This section is as follows: "28. Upon any dispute as to the title to any mineral claim no irregularity happening previous to the date of the record of the last certificate of work shall affect the title thereto, and it shall be assumed that up to that date the title to such claim was perfect, except upon suit by the attorney-general based upon fraud." It is shown on the part of the defendant that for several years before the plaintiff located his claim, he, the defendant, had recorded certificates of work and has continued to do so up to the present time. The plaintiff has also duly recorded his certificates of work, and he likewise claims that this section places him in as good a position as the defendant. As pointed out by Mr. Justice Drake in *Fero v. Hall* (unreported), July 26th, 1898, the position is one of difficulty, and I reserved judgment largely on this ground. On mature reflection I have, with some diffidence, come to the conclusion that the defendant is entitled to the benefit of the section. If effect is to be given to it at all, the irregularity complained of was cured by his recording his last certificate of work, for I am directed in positive terms by the statute to "assume that up to that date the title to such claim was perfect;" nothing could be stronger. The same remarks apply to the plaintiff's case, but