MINING LOCATIONS

His Honor Judge Harrison Applies the Law in the Case of Richards vs. Price.

The Defendant Held Not To Have Complied With the Provisions of the Act.

In the case of Richards vs. Price in the county court the following judgment has been handed down:

The plaintiff in this action claims that she duly and lawfully on the 23rd February, 1897, located the Spero fractional mineral claim, situate on sec. 49, Metchosin district, and duly recorded the same, and that the defendant illegally located and recorded a mineral claim called the Fractional Last Chance on the same land and claims possession of the land, and that the defendant's record may be declared void and cancelled.

The defendant counterclaims that he duly and lawfully located the Last Chance and that the defendant unlawfully entered his claim and illegally located the Fractional Spero claim and that the plaintiff's record may be declared void and cancelled.

The defendant, a free miner, entered on the plaintiff's lands, sec. 49, Metchosin district. He says he started at the Indian reserve post. This post, an old survey post, was at the intersection of sections 45, 46, 49 and 50. He tacked on this spot a paper on which the words following were written: "Last Chance mineral claim, east corner post, running west 260 feet. Henry Price, free miner's license 90805." West of this post he cut and squared a tree (a legal post) put on it a paper on which the following words were written: "Last Chance mineral claim, north corner post running 260 feet east. Henry Price, free miner's license 90805."

He then went along the shore line, and near an old mining shaft, which was sunk on a vein, and which shaft some men were then bailing out, and close to which he found rock in place, he placed a post. On this post he caused to be written the following words: "Last Chance mineral claim, west corner post running north 175 feet. Henry Price, free miner's license 90805."

A mineral claim owned by the defendant and others called the "Garibaldi" adjoins sec. 49. This claim the defendant had assisted in locating and marking out. He tacked on the initial post of the Garibali claim a paper on which the following words were written: "Last Chance mineral claim, south corner post running 175 feet west from this. Henry Price, free miner's license 90805."

He did not mark any post as an initial post or as a discovery post, nor did he number any post as a number 1 or number 2, nor did he mark out any location line.

On the 25th day of January, 1897, he made an affidavit before the gold commissioner, in which, among other things, he swears that he had placed a No. 1 and No. 2 post and discovery post of the legal dimensions on the said Last Chance fractional mineral claim. That he had written on No. 1 post the following words: "Henry Price, free miner's certificate No. 90805, Last Chance post, No. 1." That he had written on the No. 2 post the following words: "Henry Price, free miner's certificate No. 90805, Last Chance post No. 2," and that he had marked the line between No. 1 and 2 posts as required by section 16 of the mineral act, 1896. On the back of the affidavit is a sketch plan referred to in the affidavit showing the boundaries of the claim marked by posts at each corner "Post No. 1," "Post No. 2," "Post No. 3," and "Post No. 4."

On the 27th January, 1897, a record of the Fractional Last Chance mineral claim was issued to him in which it is stated that "the direction of the location line is east and west. The length of the claim is 260 feet." The defendant, after getting the record, went on the ground and found a man there named Atkins, who said he was going on working there. He showed Atkins his record and subsequently went there again with a hammer and drills, but Atkins would not allow him to work there. Atkins had worked at the old shaft, and there was a post with his name on near the shaft, but he did not record a claim there nor does it appear that he was a free miner.

On the 23rd February, 1897, the plaintiff's agent, F. G. Richards, located, and on the 24th February, 1897, recorded on sec. 49 for the plaintiff the "fractional" Spero mineral claim, covering within a minute fraction the Last Chance. No person was then on the Last Chance and no work had been done by the defendant.

No question arises in this case as to there being a vein or lode or rock in place in the ground claimed by these parties. The plaintiff attacked the defendant's location and record on the grounds of his want of compliance with the act as to locating and recording.

The defendant's counsel admitted that if it were not for sub.-sec. D of sec. 16 it would be impossible to give judgment in his client's favor.

As to sub-sec. D the plaintiff's counsel contended that that sub-sec. did not apply to this case. That the sub-sec. was only intended to benefit discoverers and the placer mining act shows what the meaning of the word "discovered" is.

That neither the plaintiff nor the defendant were discoverers of the mineral in place, but that it had in reality been discovered by Atkins, or whoever had sunk the shaft near the spot where the defendant had placed the south corner post before mentioned, and close to which the plaintiff had placed his discovery post. And as regards both plaintiff and defendant the act must be strictly construed.

I do not agree with the construction so sought to be placed on sub-section D, and it is not necessary to depart from the mineral act and resort to some other statute to ascertain the meaning of the words "actually discovered."

The word locator as used in the act evidently includes free miner, and is used with reference to free miners generally.

The act (v., ss. 12, 13, 16, 24 and 19) does not restrict the location of a mineral claim to the first discoverer of rock in place or to the discoverer of a new mine, but gives any free miner the right not only to locate claims but also to locate claims abandoned, and claims located but not duly recorded, and the locator (free miner) must mark any mineral claim he loeates by posts, and section 16 requires him also to place a legal post at the point where he has "discovered" rock in place, on which shall be written "discovery post;" the affidavit he is required to make shows that the word 'discovered" in that part of the section and the word "found" are used synonymously, and the words "discover" and "found" are used without any qualification. In other words, every free miner locating any claim is at the point where he has removed the covering from or exposed to view or has met with or fallen in with "rock in place" in any of the different ways legal post on thefs m o7a cmfwym in which "rock in place" may be discovered or found to place a discovery post, etc.

The only qualifying word used in connection with "discovered" in subsection D is "actually," that is, in fact, or in faith, really, in truth, positively.

To support the construction advanced it would be necessary to give the word "discovered" in subsection D, of section 16, a meaning which would be obviously different to the meaning it has in the earlier part of section 16. Neither the sense of the section nor the sense of the act requires this to be done.

A number of objections to the validity of the defendant's location and record based on his non-compliance with matters specified in the preceding subsection of section 16 were raised and cases prior to the passing of that subsection were cited in which locations of mining claims were decided to be invalid.

But it is not necessary in this case to decide as to what non-observances of section 16 are material or immaterial, as the question which first presents itself upon the facts as they appear in evidence is: Does the defendant, having discovered mineral in place, come within the provisions of sub-section D so as to be entitled to any benefit it may confer? and I think not. Neither section 16 or any other section of the act is repealed. Sub-section D deals with failure to comply with and non-observance of the provisions of section 16, but section 16 still remains part of the act and there must, I think, still be a bona fide attempt to comply with the provisions of the act, including section 16.

The act requires that every mineral claim must have a location line which must be marked at each extremity by a post, and the location and location line must be defined on the ground in such a way that the initial point and final point, and the direction of the location line, and the extent of the claim on each side of the line clearly appear, and, until the claim is so marked and particulars showing this has been done are furnished to the recorder, the locator is not entitled to a record.

Section 16 goes into particulars and states how the intention and general requirement of the act are to be carried out, but, without dwelling on the minutiae of the manner in which section 16 provides it is to be carried out, the provisions as to survey and the other references in that section to the location line and sections 18, 19, and 20 clearly show that the claim must be located in the way I have stated, and I do not think that sub-section D, in section 16, overrides the act and allows the locator in locating to disregard not only the details of section 16 but also the requirements of the statute. Here the defendant made no attempt to mark out his claim as required by the act.

But, further, sub-section D seems to me to only apply to cases of non-observance or non-feasance. Section 16 provides that the claim shall not be recorded unless the application shall be accompanied by an affidavit, and sections 19 and 20 also require information and particulars of what has been done to be furnished to the recorder.

The defendant did not fail to file an affidavit, but in it he swore that he had complied with the law and gave particulars which were false.

This was not merely a failure to comply or non-observance, but a mis-feasance, and one of the conditions of subsection D, which he claims as sole support of his record, is that there should be a bona fide attempt to comply with the provisions of the act, but his record is not based on bona fide attempt to comply with, but on a violation of the act, and must fall. The defendant's location and record are declared void and the record is to be cancelled. Costs to be county court costs on the higher scale. E. HARRISON, C. C. J.

Mr. J. P. Walls appeared for the plaintiff, and Messrs. Drake, Jackson & Helmcken for defence.

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Highest Honors—World's Fair,
DR. PRICE'S CREAM BAKING POWDER
MOST PERFECT MADE.
A pure Grape Cream of Tartar Powder. Free from Ammonia, Alum or any other adulterant
40 YEARS THE STANDARD.

Americans are the most inventive people on earth. To them have been issued nearly 600,000 patents, or more than one-third of all the patents issued in the world. No discovery of modern years has been of greater benefit to mankind than Chamberlain's Colic, Cholera and Diarrhoea Remedy, or has done more to relieve pain and suffering. J. W. Vaughn, of Oakton, Ky., says: "I have used Chamberlain's Colic, Cholera and Diarrhoea Remedy in my family for several years, and find it to be the best medicine I ever used for cramps in the stomach and bowels." For sale by all druggists. Langley & Henderson Bros., wholesale agents, Victoria and Vancouver.

Palpitation of the heart, nervousness, trembling, nervous headache, cold hands and feet, pain in the back, and other forms of weakness are relieved by Carter's Iron Pills, made especially for the blood, nerves and complexion.

SCHOOL TRUSTEES

Principals of the City Schools Report on the Curriculum of the Schools.

Trustee McMicking Wants Something Done at Central School to Protect Pupils' Health.

A meeting of the board of school trustees was held on Tuesday evening at the office of the secretary on the corner of Pott and Broad streets. The principals of the various schools were in attendance and at the request of the board they presented the following report on the subject discussed at the last meeting of the board, namely, the tendency on the part of the teachers to prepare the pupils for examination rather than to educate them.

To the Board of School Trustees:

Ladies and Gentlemen:—At your request, expressed through your legislative committee, that means be devised to check the tendency on the part of teachers to prepare pupils for examination rather than to educate, and so in this way to raise the standard of the schools in this city, we your principals recommend the following for your consideration:

Whereas with the present system of eight graded schools it is possible for a pupil to enter the high school at ten years of age (unless there be two sections in each class), thereby endangering the health of the bright pupil and practically preventing the average pupil from enjoying a high school education,

And whereas some of the text books at present in use, notably the readers and the text book on agriculture, are not suitable for public schools;

And whereas the idea prevails among teachers that their class room work is judged by the number of pupils promoted, an idea conveyed to them by resolution of a former trustee board;

Therefore be it resolved that it would be in the best interests of education in this city to reduce the number of grades to six, with yearly promotion examinations, and that we would respectfully advise that your board confer with the trustee boards of other cities in the province with a view to securing a change in the text books at the hands of the council of public school instruction, and that your teachers be notified that their ability is not recognized wholly on the number promoted, but more largely by their real work as in the daily work of their class.

The principals, who were unanimous regarding the opinion expressed in the report, thought that should their suggestions be carried out the "cramming" system complained of would receive its death blow.

Trustee McMicking wanted to know if the mind of a child would be expanded by the study of agriculture. If so, could not the other subjects in the curriculum be worked to the same purpose.

Miss Cameron, on behalf of the principals, explained that this matter was to be brought up at the next meeting of the Provincial Teachers' Institute. Further discussion on the subject was, therefore, deferred until after the meeting of the institute.

The principals also asked for authority from the board to appoint teachers in charge of primary divisions in the various schools to assume charge of the principals' work when found necessary.

After some discussion the communication on the matter was laid on the table for future consideration. Among other matters dealt with in the same manner were a letter from Miss Cameron on the rearrangement of the departments of South Park school; a letter from Mrs. Kate Soper asking why her girl was not allowed to attend school, and an application from S. Sheppard for a position on the teaching staff.

Chairman Hayward announced that he had received a $100 flag as a present for the central school, providing the following conditions were complied with, namely, that the flag be presented and accepted by a graduate of the school. The gift was thankfully acknowledged, the board stating that they were quite willing to comply with the conditions.

The next matter to be considered was the subject of proposed amendments to the school act now before the local legislature and after some discussion it was decided that the board wait upon the local members and urge them to oppose the amendments.

The tender of Weiler Bros. for seats at $4 each was accepted, and also that of J. P. Burgess for the enclosing of South Park school on condition that the ventilating system now used there was not interfered with.

Trustee McMicking then had some resolutions he wished to place before the board; the first one was on the proposed improvements to the central school for which the loan had been asked and the ratepayers had said "nay." He wanted to see if something could not be done to protect the health of the children now attending that school. The resolution was left in the hands of the alterations and repairs committee, who will take action in the matter and see if anything can be done. Trustee McMicking's second resolution was in reference to the commemoration of Her Majesty diamond jubilee. He advocated the establishment of a normal school in commemoration of that event.

Trustee Yates thought the resolution in view that a meeting was then being held in the city hall to discuss the question to be out of place and moved an adjournment.

Trustee McMicking's resolution was, after a short discussion, defeated and the board adjourned at 10:30 p.m.

DR. CHASE'S Catarrh Cure

CURES CATARRH, HAY FEVER, ROSE FEVER, AND ALL HEAD COLDS . . . GIVE ONE BLOW WITH THE BLOWER AND THE POWDER IS DIFFUSED, MAKING A CURE AND PERMANENT CURE . . . . . .
PRICE WITH BLOWER 25 CENTS

A Point to Remember.

If you wish to purify your blood you should take a medicine which cures blood diseases. The record of cures by Hood's Sarsaparilla proves that this is the best medicine for the blood ever produced. Hood's Sarsaparilla cures the most stubborn cases and it is the medicine for you to take if your blood is impure.

HOOD'S PILLS are the best after-dinner pill; assist digestion, cure headache. 25 cents.

FORT MACAULAY ATTACKED.

The Fifth Regiment Invest the Fortifications.

About 160 members of the Fifth Regiment spent Good Friday at the Macaulay Point fortifications. They marched through the city to the music of the regimental band and on arrival at the point spent one hour in infantry drill for Nos. 2 and 3, while No. 1 Co. took charge of the battery of field guns. Lunch was served at 10 o'clock. After recess the men were marched into the fort. Under the supervision of the R. M. A. instructors, they went through the work of loading the guns and laying on moving targets. The rapid firing Maxim guns were brought into action and several detachments spent some time in firing with them at floating targets. The men were lined up outside the fort and during the remainder of the afternoon they practised attacks on the fort. Before leaving the grounds Lieut.-Col. Rawstorne and Lieut.-Col. Peters addressed the men, congratulating them on the military enthusiasm which induced them to sacrifice a holiday for the purpose of making themselves more proficient in their duties as soldiers.

WAS SLOWLY DYING

THE RESULT OF AN ATTACK OF LA GRIPPE AND PNEUMONIA.

The Strange Case of Mr. James Owen, of Johnville—Doctors Told Him His Lungs Were Affected and He Could Not Recover—Now in Good Health.

From the Sherbrooke Gazette.

When a man faces what medical authorities tell him is certain death, and regains health and strength, he is naturally grateful to the medicine that has restored him. Such a man is Mr. Jas. Owen, one of the best known farmers in the vicinity of Johnville, Que. Mr. Owen tells his story of shattered health and renewed strength as follows:—"On the 17th of December, 1894, I was attacked with la grippe. A week later the trouble developed into pneumonia in its worst form, and I did not leave my bed until the 1st of March, 1895, and then I was so weak that I was unable to walk alone. All winter my life hung in the balance. Summer came and I was still weak and feeble, though with the warm weather I gained a little strength. I had, however, but very little power in my legs, and I could not ride a mile in a buggy owing to the pain they caused me. My lungs also troubled me and I raised a great deal of matter. I then consulted the best doctor we have in this section of the province. He told me candidly that I was past medical help. He said that my left lung was in a state of collapse, and that my right lung was also affected. This was in July, 1895. For the next three months, every day seemed to draw me nearer and nearer to the end. I was so pressed for breath at times that I could not walk any distance without stopping to regain it. In the month of November I began to take Dr. Williams' Pink Pills. It was certainly a forlorn hope and I admit I did not expect much benefit from them, but took them rather to please a friend who urged me to do so. I believe I was surprised when I found they were helping me, for I thought I was beyond the aid of medicine, but help me they did, and I gladly continued their use. The result is they have made a well man of me. I have not a pain about me, my breath comes as freely as ever it did, and I am strong and vigorous. My case can be briefly summed up in a few words. Dr. Williams' Pink Pills have given me a new lease of life and I am glad to let everybody know it.

Dr. Williams' Pink Pills create new blood, build up the nerves, and thus drive disease from the system. In hundreds of cases they have cured after all other medicines had failed, thus establishing the claim that they are a marvel among the triumphs of modern medical science. The genuine Pink Pills are sold only in boxes, bearing the full trade mark, "Dr. Williams' Pink Pills for Pale People." Protect yourself from imposition by refusing any pill that does not bear the registered trade mark around the box.

W. W. Robertson, of the U. S. Army, Mrs. Robertson and Miss Robertson, of Seattle, are at the Driard.

YESTERDAY'S SPORTS

Penwill Shows His Superiority in the Bicycle Races at Beacon Hill Yesterday.

Victoria and Capital Gun Clubs Hold Their First Shoots of the Season.

THE GUN.

VICTORIA CLUB SHOOT.

The Victoria Gun club held their first shoot of the season at Langford Plains yesterday, about twenty members shooting for the club trophy and prizes presented by Messrs. Short & Sons and the club. The shoot for the club trophy at 30 singles, 15 known and 15 unknown angles, was won by C. W. Minor with a score of 26. Messrs. W. Bickford and Fred Maclure each scored 25. Then came the class shooting in three divisions for the Short prizes and $10 divided. In the first class R. Jackson and W. Bickford tied for first place with 21 out of 25 at unknown angles. In the shoot-off Jackson won with 14 out of 15. W. H. Adams took second and Minor and Johns tied for third. Minor won in the shoot-off. E. J. Wall won the first prize in the second class with 19, R. Short was second with 16 and C. Porter third with 14. J. Trace won first in the third class, and was followed by H. O'Brien and J. Morrison.

THE ROD.

SOME GOOD SPORT.

Up to the present the bait fishermen have this season had things pretty much their own way, but the last week's warm weather has brightened the prospects of those who do not enjoy the sport except with the fly. A number of fish, the first of the season, were taken at Shawnigan lake yesterday, the March brown being the favorite killer. In the rivers the water is still too muddy for the fly and the same is the case at the mouths of the streams. At the lakes, however, the fish are beginning to rise well.

THE WHEEL.

RATHER TAME.

The bicycle races at Beacon Hill yesterday were rather tame affairs, Penwill having it all his own way in both the two mile and ten mile events. His opponents in the two mile race were E. A. Wolff and D. C. Isbister. Wolff made an effort to catch Penwill when the latter started for home, but he was not equal to it. The others were entirely outclassed. Penwill finished in 5.46 2-5. In the ten mile event the entries were Penwill, Humber and Isbister. They finished in the order named, Penwill's time being 29:03 2-5.

THE GUN.

CAPITAL GUN SHOOT.

The members of the Capital Gun Club held their first shoot at the head of Victoria Arm yesterday afternoon. The principal shoot of the day was for the club trophy at 30 birds, unknown angles. Messrs. Lenfesty and H. Cathcart tied, with 18 birds each, and in the shoot-off Cathcart won with four out of five. During the afternoon sweepstake shooting was indulged in.

YACHTING

PURCHASED THE XORA.

A syndicate of the Victoria Yacht Club has purchased the Seattle yacht Xora from Commodore Hensall. The purchase price is private. The Xora's dimensions are: 40 feet over all, 34 feet on the water line and 13 feet beam. She is 10.18 tons and sails in "A" class. Commodore Hensall arrived here Thursday with the yacht, but at that time had no intention of selling her.

FOOTBALL

At Duncans yesterday the Cowichan team defeated the Victoria College Association team by 3 goals to 1. Each scored a goal in the first half, and in the second half the Cowichans increased their score by two. The visitors were hospitably entertained.

MISCELLANEOUS.

At Vancouver yesterday the Victoria Hockey Club was defeated by two games to nil.

BIG STRIKE COMING.

British Shipbuilders and Their Employes in Trouble.

London, April 14.—The dispute between the marine and shipbuilding engineers and their employers is rapidly approaching a crisis. A conference was held at the Westminster Palace hotel to-day, at which an attempt was made to reconcile the disputes relating to working machines, payment of trial trips, and the appointment of local committees for the settlement of disputes. The employers rejected the proposals of the engineers in regard to working machines, and a great strike which will affect the Glasgow, Belfast, Manchester and Newcastle district now seems inevitable.

How many people are ashamed to go into company on account of a foul-smelling breath, caused from catarrh or cold in the head? If they would study their own interests they would soon have sweet breath like their neighbors. There is one sure cure for catarrh and that is Dr. Chase's Catarrh Cure. Give one blow through the blower and you get immediate relief. Price, including blower, 25 cents.

LADIES' AID.

Work of the Ladies' Society of Victoria West Presbyterian Church.

The Ladies' Aid Society of St. Paul's Presbyterian church, Victoria West, held their first meeting for another year's work on Wednesday afternoon. There was a good attendance of members. The president, Mrs. Thomas Adam, for the past year, declined re-election, and was accorded a hearty vote of thanks.

Mrs. A. C. Muir, Esquimalt, was elected president for the ensuing year, and Mrs. MacRae re-elected secretary and treasurer.

It was decided to hold a garden party and sale of work at the manse on the 24th of May.

There was read a communication from the secretary of the board of managers informing the society that at a recent meeting of the board Mrs. MacRae had placed in their hands the sum of $260, which she had collected during her recent visit to the east from personal friends in Dundas, Hamilton, Toronto, London, Chatham, Fergus, Strathroy, Bullock's Corners, West Flamboro', Norval, Brampton, Maxville and Montreal, to be applied towards the reduction of the debt on the church building, expressing also the board's appreciation of Mrs. MacRae's services and the contributors' liberality, and also asking the Ladies' Aid Society for a grant from their funds of $40 in order to enable the board to pay an instalment of $300 on the debt. The communication was received with great satisfaction and the request of the board cordially granted.

The society enters upon its eighth year with every prospect of proving for this year, as it has done in the past, an indispensable and invaluable aid in carrying on the work of the church.

ROYAL BAKING POWDER
Absolutely Pure.
Celebrated for its great leavening strength and healthfulness. Assures the food against alum and all forms of adulteration common to the cheap brands. ROYAL BAKING POWDER CO., NEW YORK.

Monthly Competition for B.C. for the Year 1897
$1,500 IN Bicycles AND Watches
GIVEN FREE FOR
Sunlight Soap Wrappers
1 Stearns Bicycle each month.
1 Gold Watch each month.
A total value of $1,500 GIVEN FREE during 1897.
HOW TO OBTAIN THEM. For rules and full particulars see Saturday issue of this paper, or apply by post card to
C. H. KING, Victoria, Agent for Sunlight Soap.

Gold is King
Plant your home claim with
Steele, Briggs
"High Grade" Seeds, sold by leading dealers.
Ask for them.
Safe investment.
GOLDEN RETURNS
CATALOGUES FREE
The Steele, Briggs Seed Co.
TORONTO, ONT.

FOR SALE—A portion of the N. & S. Saanich Agricultural Society's land in South Saanich, containing 64 acres more or less, about 20 acres clear; never failing stream of water. For further particulars apply to the secretary, H. F. Haldorn, Turgoose P. O., B. C. m5-tf-s-w

WANTED—I can employ five men and three ladies to work at and around home, a good thing, with good salary for posters. T. H. Linscott, Toronto, Ont.

WANTED, CANVASSERS—"Queen Victoria, Her Life and Reign," has captured the British Empire. Extraordinary testimonials from the great men; send for copy free. Marquis of Lorne says, "The best popular Life of the Queen I have seen." Her Majesty sends a kind letter of appreciation. Selling by thousands; gives enthusiastic satisfaction; canvassers making $15 to $40 weekly; prospectus free to agents. The Bradley-Garretson Co., Ltd., Toronto, Ont.

FARM FOR SALE.

160 acres, on Vancouver Island, 2 miles from Duncan; good house, barn and small orchard; splendid water; ten acres cleared, thirty chopped. JOHN DEVINE, Duncan.

To Farmers, Market Gardeners, etc.

THE VICTORIA CHEMICAL CO., Ltd., Outer Wharf, Victoria, offer fertilizers at the following prices, in ton lots:

Muriate of Potash	2¾c. per lb.
Sulphate of Potash	2¾c. "
Kainite	1¼c. "
Nitrate of Soda (Nitre.)	2¼c. "
Bone Superphosphate	1½c. "

Smaller quantities at slight advance.

J. PIERCY & CO.
WHOLESALE DRY GOODS, and CLOTHING MANUFACTURERS
MINERS' OUTFITS A SPECIALTY.
Victoria, B. C.