

with the additional saving by cyanide represents a net profit over and above all expenses of \$1,850,000 to be obtained from the 1,000 foot level. These estimates, however, are based upon an average vein width of 13 feet, for a length of pay chute of 500 feet. This, however, is generally regarded here as very largely underestimated. Within the limit of the 500 foot pay chute, thirteen feet is actually the minimum width, while the maximum reaches forty feet. A fairer average would probably be twenty feet, which would raise the total value of the ore above the 1,000 foot level to over four million and a half dollars.

The Broken Hill Mining & Development Co. have just received returns from the Nelson smelter on a shipment of 20 tons of ore from the Fourth of July shaft on the Wilcox mine. The ore went over \$70 per ton, the actual net profit after smelter deductions, for freight and treatment being \$1,084 for the single car load. The ore was not picked but taken from all across the pay chute, which varies in width from eighteen inches to four feet.

The strike recently made on the Union Jack mine is rapidly assuming more and more importance, and may now be fairly said to indicate the existence of a large body of high grade ore. The face of the drift on the Queen vein is now all in solid galena ore of which the average of a number of samples went over \$40 in all values. The Active Gold Mining Co. of Cincinnati, who have acquired the property are making preparations for development on a large scale.

#### DEVELOPMENTS IN LARDEAU DISTRICT.

(From Our Own Correspondent.)

**T**HIS has really been nothing of consequence to report from this locality for some time, as there is no work worth mentioning being carried on except at the Silver Cup and the Nettie L.

In the latter, however, the long upraise connecting the upper and lower workings is completed, and has passed through some very fine ore on the way, indicating the permanence of the ore body at greater depths than it had been followed so far. Of course this will be a very great assistance in developing the resources and extracting the values of the mine, and it is the intention of the management to greatly increase the force of men employed so as to ship much larger quantities of ore than has been done up to the present.

The new Victoria smelter is practically completed, and the assay department is busy examining the various samples offered. If energy and perseverance count for anything, the smelter will surely be a success, and if so will indeed "fill a long felt want" in this district, where so many claims cannot afford the expense of a long haul followed by heavy smelting costs. The owners (who, by the way, have not asked for or received any bonus for erecting their smelter here, which is an agreeable departure from the ordinary method) intend if the present small plant is successful to install a much larger one in the near future, so naturally the result of the experiment is looked forward to with the keenest interest by the citizens of our busy little town.

#### LEGAL DECISIONS AFFECTING THE MINING INDUSTRY IN BRITISH COLUMBIA.

(Specially Contributed.)

LOWE V. PARKER.

**T**HIS was an action of ejectment tried before Mr. Justice Walkem, at Nelson, B. C., on the 16th day of November, 1900. According to the judgment of the learned judge the facts appear to be that the plaintiff, in 1898, located and recorded near Nelson a mineral claim named the "Rebecca," and that having an interest in an adjoining extension named the "Ida," performed his assessment work for both claims on the "Ida," as he believed, but in reality, as shown by a subsequent survey, not on that claim but on a fraction alongside of it.

The plaintiff was illiterate, and asked the Gold Commissioner if the assessment work on the "Ida" would be regarded as impliedly done on the "Rebecca," to which the Gold Commissioner replied that it would. It was contended for defendant that whether there was a consent by the Gold Commissioner or not to obtain the benefit of work done on the "Ida" to protect the "Rebecca" it was plaintiff's duty to fill the notice of his intention to do his assessment work on one or other of the adjoining claims as required by section 24 of the Miners Act.

Mr. Justice Walkem decided that the plaintiff had been unintentionally misled by the Gold Commissioner, and that section 53 of the Act, which says that "No free miner shall suffer from any act of omission or commission . . . on the part of any government official if such can be proved" applied; and also that the omission to file the notice required by section 26 and the incorrect filling up of the affidavit describing the assessment work, were irregularities, covered by the certificate of work subsequently granted for the "Rebecca." That the assessment work was not done on the "Ida" but on an adjoining fraction was held an excusable mistake under the circumstances, the boundaries of the claim not having been surveyed.

The learned judge pointed out that one of the cardinal principles of the Mineral Act is that a miner is not to be deprived of his claim in consequence of inadvertent mistakes, such as those in this case.

The full court on the 7th November, 1901, dismissed an appeal from Mr. Justice Walkem's decision in plaintiff's favour.

CLEARY ET AL. V. BOSCOWITZ.

In this case on appeal to the Full Court, it was decided that if a certificate of work is to be set aside the Attorney-General must be a party and until set aside all things are presumed in favour of the holder. The section 28 of the Mineral Act referred to in this case and the preceding one 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 of the Attorney-General based upon fraud."

Mr. Justice Drake in his judgment says:—

"This action was dismissed with costs at the hearing, and the chief ground relied on was that the learned Chief Justice had held that the plaintiffs were not allowed to attack the defendant's title on the ground that the certificate of work obtained by the defendant was improperly issued by the Mining Recorder, and that the same had been wrongfully and fraudulently obtained. Section 28 of the Mining Act says that it shall be assumed that up to the date of the last certificate of work the title to the claim was perfect, except from suit of the Attorney-General based upon fraud. One of the objects of this section is to prevent claimants from questioning the correctness or validity of the certificates of work issued by the proper officer. If, as alleged here, the defendant was guilty of fraud in obtaining this certificate the Attorney-General is to bring the suit. There is no regulation in the Act how the party claiming that a fraud has been committed can put the Attorney-General in motion—whether as a relator or by information, or merely as a Crown officer—when satisfied that a fraud has been committed. If the Attorney-General declines to move there is no power in the Act to compel him. We think the Chief Justice was correct in the view he took of the section."

Justices Irving and Martin concurred. Mr. Justice Martin in his judgment says:—

"This case cannot be distinguished from *Lowe v. Parker* in which the court delivered judgment on the 7th instant. There, no work at all was done on the claims by mistake as alleged. Here also no work was done, by deliberate intention, as alleged. But the result is the same because the question of fraud cannot be raised unless the Attorney-General is a party to the suit."

In view of the recent decision of this court in *Gelinas et al. v. Clark; Manley v. Collom and Lowe v. Parker*, the learned trial judge was right in holding that the certificates of work, if regular in themselves, were conclusive evidence that the work had been done.

The appeal was therefore dismissed.

The effect of section 28 of the Mineral Act upon the title to mineral claims is of very great importance. How far the certificate of work is conclusive, and what irregularities it covers seems in view of the decisions not to be decided with altogether absolute definiteness.

CATO.

#### CORRESPONDENCE.

##### LEAD SMELTING COSTS.

To the Editor B. C. MINING RECORD.

SIR,—I have read with interest your able article on the "Lead Producing Industry of B. C." However, if I may be permitted to say so, the impression left on the mind after perusal is that the mine owner should be content to leave freight and treatment charges as they are, and trust to others philanthropy to give them his share of their profits over what will satisfy these interests.

That I desire on the part of a mine manager financially backed by the directors, to get for the shareholders all the profits possible is regarded as a misapprehension of the situation, and as only a disturbing influence against the present happy conditions existing for transportation and smelting interests. Because one dollar per hundred pounds is deducted on lead, with other prerequisites under present conditions, therefore, the mine managers should be willing that their argentiferous lead should always be shipped away to be refined, should always be sold through London, instead of direct to consumers.

An effort that B. C. should excel rather than follow in metallurgy and business acumen is surely the right spirit among her mine managers.

Your obedient servant,

Nelson, B. C.

R. C. CAMPBELL-JOHNSTON.

##### VMIR DISTRICT IN 1901.

To the Editor B. C. MINING RECORD.

SIR,—Will you allow me to make a few corrections in the article on this district which appears in your February issue under my name. The errors referred to must, I think, have arisen in process of sub-editing, or are possibly attributable to my indecipherable calligraphy.

Referring to the Ymir mine, you make me say the tunnel has "300