# THE TERRITORIAL ASSIZES.

## Dr. McWm. Bourke Wins His Water-Front Case.

**Two Indians Dead and Two Reprieved—Powell Got Six Months—Perjurers Plead Guilty—Illegal Appeals Quashed.**

Exceptionally interesting and important is the sessions of the Territorial court, which opened before his lordship Judge Dugas on Wednesday. The criminal calendar is large and above the ordinary in other respects, while the jury trials promise to test the best judgment of the chosen ones.

James and Dawson Nantuck, the two Wood Indians convicted of the murder of a white man on the McClintock river last spring, and who were to have been hanged on Thursday, have again been respited, this time until the fourth day of August. The two murderers were arraigned before Judge Dugas on Wednesday, and informed through J. A. Peterson, acting as interpreter, of the proceedings being taken in their behalf. At the time of the first reprieve, an appeal was taken to the supreme court of Canada, on the ground that their trial was illegal in that the court had been legislated out of existence by the substitution of the present one; the government was also advised of the matter, and as no word has yet reached here from either court or government, the second reprieve was decided upon.

There are no takers for the wager that the two men will be dead before the day of execution arrives. Two of the four guilty Indians having already died.

Judge Dugas set a good pace at the opening by delivering his decision in Dr. Isadore McWm. Bourke's famous water-front case, trial of which was concluded about a fortnight ago. As will be remembered, Dr Bourke last July rented the site of his present establishment from Morrison & McDonald, and paid rent thereon at the rate of $40 per month until November, when he refused to pay further, as did most of the others on the river front. Morrison & McDonald, through their agent, issued a warrant of distress on December 6th addressed to Frank Harper as sheriff, which was served by J. A. Stewart, and the doctor's house, with contents and a pile of firewood, were seized. The doughty doctor at once donned his war paint, and proceeded to disturb the atmosphere surrounding his persecutors, causing an injunction to be served against Messrs. Morrison & McDonald and attacking their very rights to the ground they controlled. In the trial of the action the doctor tested his adversaries on technical points, but the defendants seem to have got the lion's share of the verdict. The court held, first, that the seizure was irregular and illegal in several respects; it was served against the doctor's house, which is a fixture and not subject to seizure; the chattels seized were not removed from the premises within five days, and the seizure was made by one J. A. Stewart, whereas the warrant of distress was addressed to Sheriff Harper, who had no authority to delegate his powers. On the point raised by the doctor that the seizure was illegal because not made between sunrise and sunset, the court ruled that while an English law to that effect exists, it is not applicable in Dawson, where, during a period of the year, there is no visible sun According to the letter of the law he showed seizures could, at one season of the year, be made at Dawson as late as eleven o'clock at night, which surely would not be carrying out the spirit of the law, which seeks only to confine such operations to the period of usual business hours. On two other important points—the two which have the greatest bearing on the water-front controversy—the court ruled against the doctor. First, it was held that the title of the landlord could not be disputed by the tenant except in the suppositious case of a transfer of the leased property to a third party, by which the lessee might consider himself liable to both parties; second, it was held that the doctor had entered into a lease of the premises in good faith, and that although a formal lease is not in evidence the memorandum of lease is yet binding. The judgment was that the injunction be maintained, but that $80 paid into the court by the plaintiff be given to defendants.

RELATIONS OF PARTNERS.

Judgment was also rendered in the case of John Ross vs. Lou Rehder and Stephen Kane, which tells a story by no means uncommon to life in the gold fields. Ross, it seems, met Rehder on the lakes and the two formed an arrangement by which they were to come down the river together. While en route they decided to extend their relationship and a partnership existed such as is common among people coming into the country. The property they had was enjoyed in common, and whatever one acquired in the way of mining property was to be equally shared with the other. Ross finally staked No. — above upper on Dominion, but before he could develope it sufficiently to perfect his title he found it necessary to leave for the outside to get his family. Having faith in the ground he induced Rehder to stake the ground, which he did, and further prospecting proved it to be very valuable. Ross arrived here in the spring only to discover that the possession of wealth had quite changed the disposition of the man who had been his partner, for Rehder refused to share his claim or have anything to do with him. The evidence introduced had fully proven the existence of a partnership, and that was all that was necessary for the judicial mind of his lordship, who awarded Ross a half interest in the claim.

TYPEWRITTEN SIGNATURES NOT LEGAL.

Crown Prosecutor Clark gave his fellow barristers some substantial lessons in the rules governing appeals. It was all done, undoubtedly, in the friendliest of ways and for the general welfare of the bar but the fact that the lessons necessitated adjournment of several cases was a bitter pill to swallow, though it will probably serve to indelibly impress the incident upon the memory of the interested ones and keep them off the shoals on future occasions. Among the cases was that of Joseph Schwartz, charged with having in his possession liquors with the intention of sale, and those of one Johnson and Curley Carr, charged with vagrancy.

The incident also brought out the fact that, while Judge Dugas is the supreme judicial tribune in the Yukon territory, a typewritten signature on legal documents will not "pass muster." In one of the appeals set back, Crown Prosecutor Clark had shown that the notice of appeal bore the signature of appellant's attorney in typewriting which, he contended, did not comprise a legal signature. In this he was sustained by the court, who passed some pertinent remarks on the subject.

KENTUCKY CREEK CASES.

The criminal calendar was taken up with the introduction of a number of the defendants in the Kentucky creek perjury cases. E. J. Fisher and A. H. Broman pleaded guilty, while Herman Figur, Theo Jones, Sam Kirk and Thomas Boldman all entered pleas of not guilty and elected to be tried by jury. The cases are set for trial on March 15th, when the first jury cases will be taken up.

One of the several cases against Billy Moss, the pugilist—that of stealing the sled upon which a load of stolen provision was hauled away from the cache of Stauff & Zilly, on the morning of February 2, came to trial. Isaac N. Shrum positively identified that sled as his own and Corporal Skirving testified to the arrest of Moss while in possession of the sled and provisions. That was all the evidence introduced and, notwithstanding the efforts of counsel for defense to prove the existence of a doubt in behalf of their client, he was adjudged guilty. Sentence was reserved.

GOT SIX MONTHS.

James Powell, one of the fellows taken in by the police during their recent raid, pleaded guilty to a charge of stealing some goods from St. Mary's hospital and was sentenced to six months at hard labor. In passing sentence, his lordship took occasion to say to Powell: "You have been, as you said, a policeman and a soldier and should, by reason of that, know how to properly conduct yourself; but, instead, I learn that you have been in the habit of associating with loose characters, and you had abused the good treatment accorded you by the people by robbing them. You also sought to take advantage of his absence from the country to swear the crime upon another, which shows a bad trait in your character." He also intimated to Powell that when gentle spring dawns upon the Klondike, he will be shipped out of the country in company with "the other thieves infesting the community."

SCRAP FOR SCHWARTZ'S "POKE."

An interesting legal question arose, with the request of counsel for Joseph Schwartz that the latter's sack of gold-dust, seized at the time of his arrest on a charge of attempting to pass dust impregnated with brass filings and which contained $2,000 [less the brass], be returned to him, the charge having been dismissed. The poke was being held in the court of Justice Harper, who is also bailiff and executive officer to the territorial court, so that an order to return the property to its owner would require that official to act in a dual capacity Joseph's counsel didn't care greatly for that, however, and intimated that the other gentlemen who were opposing his motion were welcome to try for the money the moment it reached Joseph's hands. The court finally issued the order asked for, and there was an immediate moving about of the lawyers which boded little security for the poke the moment it left the hands of the bailiff-magistrate.

But Schwartz was doomed to disappointment if he expected to have the poke once more placed within his aspiring palm, for Sheriff Harper had an attachment "up his sleeve," and when, as justice of the peace, he turned the poke over to himself as sheriff, he at once applied the attachment to it and still holds the dust.

MOSS' RANK STUBBORNNESS.

At the Thursday sessions, Moss was again arraigned and confronted with three other charges, one for the robbery of Stauff & Zilly's cache, from which four sled loads, or nearly $600 worth, of assorted provisions, was taken. Messrs. Stauff, Zilly and Biber identified the stolen property, and Constables Skirving and Smith described the arrest of Moss and Bates. It was a hopeless case from the start and Moss' counsel, Attorneys Aikman and Lisle, put in no defensive argument, besides advising the prisoner to plead guilty; but he refused to do so, and Judge Dugas didn't waste a half minute in announcing him guilty.

A revolver and telescope, which were identified as having been stolen from the cabin of Myron A. Day about two weeks previous to Moss' arrest, together with about $205 worth of other goods, were then introduced in court and Moss put on trial for their theft. In this case it was shown that the articles were found in Moss' cabin when it was raided by the police and were identified by Mr. Day. Moss was again urged by his attorneys to plead guilty and throw himself upon the mercy of the court, but he refused and took the stand, where he said the stolen articles had been left at his cabin by a man named Morgan. He couldn't identify Morgan and didn't know where he is, so his story didn't go for anything with the judge and he was declared guilty.

A third charge, that of stealing a fur robe from M. J. McLain and which was found in Moss' cabin, was also called, and again Moss' attorneys urged him to plead guilty, besides showing him the hopelessness of his case But he wouldn't do it, so the attorney's gave him up as a bad job and no one was surprised when the court found the prisoner guilty. Sentence was reserved in all the cases, but the aggregate will doubtless be a "fright."

**What Canadians Think of the Investigation.**

The Canadian papers which have penetrated through to Dawson show that the liberal party is making a grand-stand play upon the fact they have forwarded a royal commission of investigation to Mr. Wm. Ogilvie. The crowing is destined to change to wailing when news is received from here that the investigation does not cover anything subsequent to August 25th. Undoubtedly the conservatives will make the most of it.

James A. Smart, deputy minister of the interior, wrote to Sir Chas. Tupper, a leading conservative, and the following is the answer, showing conclusively that even the liberal ministry had no idea of the limitations which the originators placed upon the letters patent:

*Sir:* I have the honor to acknowledge receipt of communication from you, dated the 2nd December, 1898 (M), in which you request me to forward any information I may have showing or relating to any specific acts of malfeasance on the part of any officer of the government in the Yukon district during the past two years," in order that it may be sent to Mr Wm Ogilvie, the commissioner of the Yukon district, who has been authorized to make an investigation into the truth of the statements made in a complaint by certain persons claiming to represent a miners' institute or committee

In reply, I regret to be obliged to decline placing this information in the hands of Mr. Ogilvie. I do not approve of the plan which the government has seen fit to adopt in appointing the commissioner of the district to make this investigation. In my opinion, the only satisfactory investigation into the condition of affairs in the Yukon district can be under the control of a committee of parliament, or under a thoroughly independent and royal commission, which should sit at Ottawa, as well as elsewhere. Your obedient servant.

[Sgd.] CHAS. HIBBERT TUPPER.

**A London "Wildcat."**

The following is from the *Trade Review*, London, England:

The sole purpose of the Golden Klondike River [Limited] is "to dig out the gold from the bottom of 5 miles of the Klondike river, and ship this gold down to the mint, and pay it out to the shareholders as dividends." It appears from the prospectus that the gold in that particular five miles is going to realize over £800,000; and as "dividends will be paid monthly as soon as possible after the erection of the necessary machinery," it is clear that there is a fortune waiting for somebody. Being true philanthropists, the promoters are desirous of sharing their good luck with the public, and toward this end they are asking through the medium of *Tit-Bits* and other journals of that class for the sum of £100,000, of which £70,000 is to go to the vendor company, which is the Klondike and Columbian Goldfields [Limited]. Who but a philanthropist or body of philanthropists would sell for such a mere bagatelle as this a property which is going to return over £800,000? All the same, we should advise investors to have absolutely nothing to do with this issue. The undertaking is about the wildest of all the wild promotions to which even the Klondike discoveries have given birth. We have trotted out again for us all those stories about the wealth of the district which we have heard *ad nauseam*; but it does not appear that any effort has been made to discover whether there is gold at all in the bed of the Klondike river. What it lacks in this and other directions the prospectus makes up for by shrieking about mountains and cities of gold, with a lot more foolish rhodomontade designed—very unskillfully, too—to captivate the imagination and turn the reason out of the back door. We own to a tolerably extensive experience of flagrant prospectuses, but it is a long time since we came across anything so really impudent as this.

**A Good Map for 50 Cents.**

The Mine Exchange Map of the Klondike Gold Fields should be in the hands of every miner. For sale at the NUGGET office. Price 50 cts.