

Even if the lease were not void ab initio it became void by the action of the authorities in stopping the further use of the premises as an hotel. Judgment for defendant.

*L. Bond*, for plaintiff. *G. H. Cowan* and *A. J. Kappele*, for defendant.

Hunter, C. J.] WOODBURY MINES *v.* POYNTZ. [Oct. 13, 1903.  
*Mining Law—Expiration of certificate—Special certificate—R.S.B.C., 1897, c. 135, s. 9 and B.C. Stat., 1901, c. 35, s. 2.*

Action of adverse claim in which the plaintiffs adversed the defendant's application for a certificate of improvements to the Sunrise mineral claim. The plaintiffs claimed the ground in dispute under two locations known respectively as the Sunset and Mayflower mineral claims. These locations of the plaintiffs were good and valid up to May 31, 1901, upon which date the plaintiffs allowed their free miner's certificate to expire without renewal. The defendant's claim was located on July 8, 1901. On Oct. 25, 1901, the plaintiffs, by paying a fee of \$300 obtained a special free miner's certificate in accordance with the provisions of s. 2, c. 35, of stat. of 1901, and relied upon that section as reviving their rights, notwithstanding the intervening location of the defendant.

*Held*, that on the expiration of a free miner's certificate any mineral claim of which the holder thereof was the sole owner, becomes open to location, and the obtaining of a special certificate under s. 2, of the Mineral Act Amendment Act, 1901, does not revive the title if in the meantime the ground has been located as a mineral claim. Judgment for defendant.

*A. H. MacNeil* K.C. for plaintiffs. *McAnn* K.C. and *P. E. Wilson*, for defendant.

Full Court.] JOWETT *v.* WATTS. [Nov. 5, 1903.  
*County Court Act, ss. 103, 104, 106.—Garnishee summons based on default summons.*

Appeal from a judgment of Forin, Co. J., setting aside a garnishee summons which had been issued based on a default summons, holding that it was irregular because the only provision for issuing a garnishee summons was to make it returnable at the same Court as the ordinary summons was returnable and a default summons is not returnable at any fixed Court.

*Held*, a garnishee summons may be issued based on a default summons as well as on an ordinary summons; the settling of the time of the holding of the Court is only a question of procedure, and if a plaintiff summons a garnishee too soon it will be at the peril of costs. Appeal allowed.

*S. S. Taylor*, K.C. for appellant. *C. B. Macneill*, for respondent.