

Maybrick and Lundy after their release could not be prevented from taking another spouse.

So, too, while rights cannot be acquired by a wrong doer from his wrong, "the rule applies to the extent of undoing the advantage gained where that can be done, and not to the extent of taking away a right previously possessed. Thus if A. lends a horse to B., who uses it and puts it in his stable and A. comes for it and B. is away and the stable is locked and A. breaks it open and takes his horse, he is liable to an action for the trespass . . . and yet the horse could not be got back, and so A. would take advantage of his own wrong. So though a man may be indicted at common law for a forcible entry, he could not be turned out if his title is good . . ."

See also *Ackford v. Preston* (1861), 6 H. & N. 464.

In the present case the discoverer had no rights in the land and claim previously possessed—and he founds his claim upon acts done by him, a trespasser, a wrong doer, one liable to conviction for a crime. It is clear that no such claim can be allowed by any Court, nor can it be allowed to be set up against the right or claim of any other—unless, indeed, the provisions of sec. 85 (a) of the Act save him.

Sec. 85 (a) does not purport to be in any way in modification of secs. 22, 23, 27. Section 27 provides for the ordinary case of the renewal of a license "before the expiration thereof;" this renewal is to "bear date the 1st day of April, and deemed to have been issued and shall take effect immediately upon the expiration of the license of which it is a renewal." But sec. 85 (a) provides for an entirely different case for what is called a "special renewal license," both in the section itself and in the tariff, item No. 23. This so far as appears need not be dated 1st April—at all events it is not provided that it shall come into effect retroactively. It is only issued "to save forfeiture" (Tariff item No. 23), a forfeiture under sec. 84. This as will be seen is forfeiture of "all the interest of the holder of a mining claim before the patent thereof has issued." The "special renewal license" is not operative to make that rightful which was wrongful, that innocent which was a crime, but only to prevent from forfeiture the interest already rightfully and lawfully acquired of "the holder of a mining claim."