

INTERESTING TO MINERS

Timber Rights Are Determined

Placer Men Can't Cut Wood on Quartz Locations Says the Court of Appeals.

A recent decision in the court of appeal which will have an interest to all holders of placer mining property is that which was rendered in the case of A. H. Anderson et al vs. W. O. Smith et al. The question at issue was the wood which covered the quartz claims owned by the defendants.

Plaintiffs are the owners of 78 and 79 below on Bonanza and a hillside adjoining on Trail creek and they sought to use the timber covering the quartz locations, assuming under section 3 of the placer regulations which gives the right to free miners to cut timber for actual necessities on lands other than their own, that they were entitled to do. Among the allegations of plaintiffs is one that the defendants never did any proper assessment work on their mineral claims and have not mineral in place, though their locations have been accepted and certificates of work have twice been issued by the department; that they claim all the timber on the locations to the exclusion of the placer men and that they are not and never have carried on any mining operations requiring the use of said timber. In his judgment Mr. Justice Dugas says:

"I will not enter, as far as I am concerned, into any argument to demonstrate that the plaintiffs as ordinary subjects have no right to claim against parties in possession, however weak their title may be, however negligent they are in fulfilling the conditions into which they have entered with the crown, so as to deprive the latter of whatever rights a grant or regulations give them as long as they remain in possession thereunder. The question on this point is more fully discussed in the case of Risser et al vs. Pinkert et al already adjudged upon, and that of Smith et al vs. H. T. Willis, and, as in this present case the position of the defendant is still stronger, I have no hesitation whatever in declaring that as far as the allegations contained in paragraphs 4, 5 and 6 of the statement of claim are concerned, the plaintiffs have no standing whatsoever, either before the gold commissioner or before this court.

"The only point is, therefore, whether under the regulations governing placer and quartz mining claims the holder of a miner's certificate, to whom grants of placer claims have been made, have the right to enter upon quartz claims and use the timber thereon, either as lumber or wood, for the actual necessities of those claims. To decide this question one has only to refer to the regulations applying to both quartz and placer claims, viz., section 33 of the quartz regulations.

"This seems to me to be a very clear disposition and statement of the rights of a quartz claim owner. I cannot see that there can be any question as to his rights to all the timber on his claim, limited to be used for mining and building purposes in connection with the working thereof, and for the purpose of developing the minerals contained therein. This interpretation is the more strengthened by perusing other sections of the regulations. . . . This leaves no doubt in my mind that the plaintiffs as placer mine owners have no right to the timber which forms part of the survey of the quartz claims belonging to the defendants, therefore, I am in favor of the appeal being dismissed with costs.

Mr. Justice Craig in his opinion says: "The question is a plain one as to the right of free miners to enter on lands located under the quartz regulations, and it seems to me that section 33 settles the whole matter. The holder of the mineral claim is entitled to all the surface rights including the use of all the timber; that is, if he requires to use all the timber on his claim he may do so. Practically, the timber on the quartz claim is reserved for his use unless, as provided by section 52, the timber has been previously granted or leased under a valid timber lease. It seems to me that the exception in this case proves the rule, and that the timber being excepted where a

timber license is in existence would imply that where no such license is in existence the timber passes to the use of the mineral locator. There is no section of any mineral law cited by counsel for the plaintiffs which is in the same words as our section 33 which provides for all surface rights and all timber passing. I do not see that on this case, the question of whether the mineral claim was a valuable one or not should be tried. The locators have seen fit to locate their mineral claims, have done the representation work and have been recognized by the department as bona fide locators, and I do not think that the plaintiffs have any status to attack the bona fides of their holding. They have no interest in the quartz claim, assert none, as a mineral claim. Whatever rights they have, if they have them, are under their free miners' license to cut timber. If this were not so, the reservation would be of no use to the mineral locator, because the placer miner adjoining might strip and denude the ground of timber in a very short time. The appeal should be dismissed with costs."

Gold Commissioner Sentenced

Gold Commissioner Senkler concurred in the decision, making the opinion of the court unanimous.

A Wonderful Sense of Smell

The buzzard's wonderful sense of smell is a curious subject that has often been discussed, the discussion of the matter having resulted in a general uniformity of opinion among scientists that they locate their food by their sense of smell alone. A noted biologist says that he has noticed in Florida they never leave the roost where the night is spent, especially on damp, foggy mornings, until the moisture has been dried by the sun. They then move slowly across the wind until a "scent" is struck, when they move more slowly "up the wind" until the carrion is located. Sometimes they will drift down the wind past their prey until they have struck the scent which they follow up until they have found the object of their search, sometimes in the densest thickets. The biologist says that he has upon several occasions killed wild hogs in the thickets, and, after dressing them and taking what meat he wished, would see twenty or more buzzards coming down with the wind. On one occasion they had discovered some animal remains he had covered up and on another had found a dead snake which he had buried.—Ex.

President is Censured

Havana, May 28.—The house of representatives has reconsidered the bill which provides amnesty for Americans who were under sentence or in jail in Cuba, and has added an amendment which provides that amnesty be provided to native-born Americans only. In this form the bill was sent to the senate. The purpose of the amendment is to exclude from the proposed amnesty those naturalized American citizens who might be released under the bill and who might still continue to reside in Cuba.

The house has voted to fix the salary of the president of the republic at \$25,000 a year and that of the members of congress at \$3,600.

President Palma's message to congress was read today. Much scandal has arisen from the fact that this message was published here last night before it had been delivered to congress. Today the house passed a resolution to the effect that it considered the premature publication of the message a discourtesy on the part of President Palma.

Earned His Sentence

Tacoma, May 28.—John Ferguson was today sentenced to eight years in the state penitentiary for a score or more burglaries he acknowledges having committed since January 18 last, when he finished serving a two years term in the penitentiary. Ferguson is a sailor and for four years past his home has been in a shack at Gravelly lake, ten miles south of Tacoma. He was arrested three weeks ago and made a full confession. He makes a specialty, he says, in his thieving, of money and jewelry but in addition he has stolen at the various places burglarized valuables and property of every description, and he had accumulated a large amount of loot which he cached. Ferguson's self-confidence and assurance are surprising. He burglarized the home of T. L. Bland in broad daylight when Mrs. Bland was in the house, and actually dodged about from room to room to escape her observation while he was searching the house.

An Old Briegroom

New York, May 35.—Townsend Miller, a Montauk halfbreed, living at Jamaica, L. I., and who claims to be 104 years old, has just been married the fourth time. The hardest thing on earth is to act pleased when you are disappointed.—Atchison Globe.

THRILLING EXPERIENCE

Press Correspondents Investigate Mt. Pelee

Priest's Hospitality Saved the Venturesome Expedition From Death.

New York, May 28.—Mount Pelee, from which there was another violent eruption on Monday, was quiet again last night, according to a Herald dispatch from Fort de France. But the dispatch adds, the inhabitants of the island are in a terrified state. The volcano is puzzling all the scientists; some of whom say the mountain has thus far only made a beginning. Morne Rouge was saved from destruction last night only by a miracle, says a priest who was there.

Two correspondents, believing the volcano had, for a time at least, subsided, planned an expedition to the mountain for the purpose of securing photographs. Several natives were employed as guides.

"After a weary march, which took most of Monday, Morne Rouge was reached about 7:30 o'clock in the evening. The correspondents were welcomed by a kindly disposed priest who gave such information as was in his possession. He insisted upon a pause being made for refreshments, and in his humble home food was prepared. It was the generous courtesy of the priest that saved the expedition from destruction. The original plan was that the visit should be made to the crater as soon as possible, and that a quick return be made to Fort de France to avoid all danger. While the evening meal was being prepared the priest pointed out the work of ruin that had been accomplished. He said that he had refused to leave his post, though he was not at all certain Morne Rouge would not be swept from existence as was St. Pierre. It was while he was talking that the explosion came. From their homes the inhabitants of the village ran in a panic. Some did not wait to see what was happening, but hurried over the mountains in the direction of Fort de France. Scores went into the churches and went on their knees, but by far the greater number ran without daring to look behind. The display of lightning was terrific and awe-inspiring.

When the start was made on the return trip to Fort de France the guides and servants were gone. The correspondents had to find their way across the hills as best they could. Behind Mont Pelee continued to belch fire, ashes, smoke and mud. The detonations were of sufficient strength to make the ground tremble. It seemed as if the mountain top swayed. To add to the horror of the situation the travelers encountered every now and then a fer de lance, deadliest of all snakes. Scattered specimens of the serpents, of which thousands have been killed by the

eruptions, were seen, amid the glare from the volcano and the flashes of lightning, gliding over the rocks and hurrying away as if they, too, had learned that their mountain home was no longer a safe place.

On all sides were natives, praying and cursing in turn. Many, exhausted, fell and were unable to continue. From Morne Rouge to Fort de France, by the devious path that was traveled, was almost forty miles. That distance was covered before dawn Tuesday morning.

Later arrivals reported that Morne Rouge had been destroyed, as the force of the explosion was exerted in the direction of the sea.

Robert T. Hill, of the United States geological survey, who left here for Mont Pelee Monday afternoon, has not yet returned, nor has he been heard from. He planned to try the crater from Morne Rouge. George Kennan, the noted explorer, has been absent in the north five days, and has not been heard from.

When You Travel

Don't wait until you reach the station, a few minutes before it is time for the train to start, before you find out the time for starting, arriving at your destination and the time of connection. Other passengers wish to take the same train and must buy tickets. And don't argue the question of the price of your ticket with the ticket seller. The price is settled by the managers and directors of the road. If the price is unjust, address a communication to them and stay at home till the price is satisfactory or pay it and keep still.—Ex.

Prospect of Peace

Helena, Mont., May 26.—There is every prospect that settlement will be effected today between the management of the East Helena Smelter and its 700 striking employes and that the fires will be started in the furnaces in a few days. While the terms of this agreement are not known, it is believed that the company has agreed to recognize the union as an organized body of employes and not as a body affiliated with the other union, and that it will treat with them whenever a demand is made for a conference.

Struck Flaming Asphalt

Austin, Tex., May 25.—In the oil fields near here yesterday the drill in a well at a depth of 142 feet dropped into a lake of liquid asphalt, which is so thick and heavy that farther drilling is impossible. The heavy black stuff oozed up into the well for quite a distance. It is said that liquid asphalt has been found heretofore only in Trinidad.

Yankee Money

Special to the Daily Nugget. Washington, June 7.—A mint will be established in Manila, the coinage laws of the United States having been extended to the islands.

Brisson Refused

Special to the Daily Nugget. Paris, June 7.—Henri Brisson, premier of France, has been asked by President Loubet to form a new cabinet but refused.

Cassidy—Why don't ye at yer dinner?

Casey—Shure this is Froiday, an Oi'm wonderin'. Cassidy—What are ye wonderin'? Casey—Is turtle soup fish whin it's made out of veal?

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STEVENSON BANQUET

Friends of De Banker Honor

Speed the Parting Gue Him to be Caref Seattle.

It was just a little gathering of the best of them, blow-out which the title handsome souvenir menu lettered as a "Farewell" happened Saturday night in the banquet room over Lewis and Clark Hotel. The occasion was the departure of "Steve" before midnight. Some time after midnight he had found a representative lot of men of genial and convivial bent. "Steve" one farewell talk before he departed for his village marked on the Seattle. The menu was in several ways, some conceit that can be pressed souvenir of the occasion. The first page was the photograph in whose honor the given wearing the same smile so familiar to all who experienced the delicious hearing him say "cer security." The menu was a delicious work of art. The exquisite tastes of those who dined might have been

- Oysters.
- Champagne.
- Salad.
- Champagne.
- Turkey.
- Champagne.
- Ice Cream.
- Champagne.
- Coffee.

More Champagne. The inner sheets contain the inscription "Say good-bye."

Music by the band. The tables were arranged in the form of a horseshoe. Willis, chairman, in the guest of honor of Fremuth's orchestra furnished music which added no lullaby. Songs were of a patriotic nature, particularly otherwise, the orchestra being the Zero and an original version was Ireland when England

Bill Young dropped in and received an ovation as a result of his breaking in at such an hour. Well known composer of work" sang "Tit Will an ideal Ko-Ko could Upon arriving at the menu, Chairman Willis

"We are assembled here respects to our old friend who is soon to leave are all sorry he is going particularly myself as our the past four years, he been close but extremely He and I together were the Bank of Commerce our lot in Dawson. I tempt to make a speech stand speeches are not ed, besides I am no We have so set program to have a few songs, and then you may cut will be no toasts beyond customary in all British Gentlemen, I propose the King," which was sung with the singing of Anthem.

While still standing honor of their guest a jolly good fellow." Three cheers led by Charles Cowan responded "Wandering Minstrel," McLennan told a dog story the credibility of which he upon conclusion assailed with that "You're a liar."

Class. Macpherson "Tollin" and "We want army." Billy Sims delivered a sermon in excellent Frank Johnson gave a French-Canadian story to make a hit. J. told a story and at the Father Walsh, J. H. I suggested to give his of how I met Governor of game Susie. Chas