

ALL SHARE THE CLAIM Decision of Court of Appeals

Famous Six Corned Litigation Over a Gold Run Hillside Finally Disposed of.

The six-cornered suit over a Gold Run hillside claim, which was heard last summer before Gold Commissioner Senkler and afterward appealed to the court of appeals, has at last been decided, the ruling of the court following the precedent already established when two or more stakers are found to have located a piece of ground simultaneously, being that they should hold an undivided interest in the claim in question according to the number who have staked. The appeal was heard before the court on the 27th of February, Judge Justice Craig rendering the decision subsequent to his trip to the Yukon.

The decision of Mr. Justice Craig was received by mail some time ago and it was then intended that the remaining judges of the court should not pass upon it until they had all returned and all would again sit together, but Saturday the court of appeals met and Judge Justice Dugas and Gold Commissioner Senkler concluded to review the decision and either concur or dissent in order that the judgment might be placed on record. The decision of Mr. Justice Craig is as follows: The case being styled H. L. Kies vs. F. X. Gowans, Fred J. Lindin, R. T. Sinclair, Fred J. King, J. H. Chute and A. E. Wills. The last two named having been parties to the suit by reason of purchasing the interest of defendant Gowans.

"On the hearing of this case I expressed a view that the appeal of Kies should be dismissed with costs. The more careful perusal of the evidence shows no reason to change my opinion formed upon the hearing. Kies went on the claim after the other parties had staked, went purposely looking for a lawsuit. He deliberately cleared away the snow from the head of the stakes of other parties to the action allowing them to fall down. He could in no way claim to be an innocent staker. He went to the ground with full knowledge of all the facts and was an ordinary common claim jumper who is entitled to no consideration from the court. His argument on the hearing of this appeal was that the other parties had not driven their stakes into the ground as required by the regulations. They did drive them into the ground and it was impossible at that season of the year to drive them further. A man going to stake in this country in the winter cannot be expected to take with him a crowbar and pickaxe so long as he gives to the world notice of his staking. I think he complies with the regulations in all essentials, not only with the spirit, but the wording of the regulations. Kies' appeal should be dismissed with costs and is one of the cases where it is a great pleasure to make a man pay costs who is so anxious to incur them.

"As to the other parties, it seems to me to be admitted, if not admitted in fact, that they staked the claim in question simultaneously, and after the decision already given by this court that priority of record will give no priority of title and unless there is actual priority of staking, these parties should then be entitled equally, there being no reason to give it. I do not think that there are any other reasons sufficiently strong to warrant the court in dismissing the claim of any of these claimants. The only question of any importance was as to whether the staking of the parties should be allowed according to their actual staking back. Two of them, Sinclair and Lindin, staked what is known as the upper or Jephson line, while Gowans and Meyers staked on the lower line surveyed by Cote. I think these surveyors intended to divide by their surveys the upper boundary or rimrock of the creek claim upon which this hill claim was located. We had no evidence before us to show which of these surveys was correct; in fact, both of them might have been wrong. The clear intention of the stakers was to stake the hillside. All were there together for the same purpose. It was a reverted claim open for location at 12 o'clock on the 27th of February. One set of stakers proposed that the upper line, properly surveyed rimrock, the other set proposed that the lower line was right,

but all knew the others intended to stake that particular hillside claim. "There is no section in the regulations that I can find that requires the stakers to be exactly on the upper boundary of the creek claim to entitle the staker to hold his claim as a hill claim. During the continuance of what is known as the rimrock regulations that would have been impossible in nearly every case.

"The plaintiff Meyers and the defendants Gowans, Sinclair and Lindin will share equally in the claim in question. Kies' appeal will be dismissed and the defendants Chute and Wills will take whatever benefit they may under their assignment on the Gowans claim. The question of costs in this case as between these parties is a serious one. I have already given my views as to the Kies costs. The other parties in my opinion should as against each other pay their own costs.

"The opinion of Mr. Justice Dugas is as follows: "I concur as far as Kies' claim is disallowed and as to costs; but differ as to dividing the claim, which should be allowed to one of the stakers only. Lindin also should not share as he did not appeal."

Gold Commissioner Senkler also dissents as to the right of Lindin to a share in the claim. The following is his opinion: "I concur with the exception of giving grant to Lindin, who did not appeal."

A Common Slip.

Frank Graham came in from Dominion on Saturday and in the evening he laid down with his load at the side of the trail just as he would at home. The police run him in on a specific charge of obstructing a public highway and an understood but not expressed charge of rendering himself liable to be frozen to death. The defendant said he slipped and fell but was able to take care of himself. Judge Macaulay himself admitted that a Scotchman was never known to be drunk, and he therefore inflicted a fine of \$5 and costs just to remind him that the climate of the Klondike was capricious.

NEW TIME IN EFFECT

Was Made So Officially Yesterday.

Noonday Gun Fired at 12 O'Clock by the Corrected Time, a Change of 45 Minutes.

A casual observer walking down First avenue this morning at about 8 o'clock could not help but notice the unusual number of people on the street at that hour, and they all possessed a sort of blank expression on their faces which seemed to say, "what happened you that you are up so early?" The change was all due to the new time which went into effect Sunday noon, and in future years the residents of Dawson can truthfully boast of having been a living witness of the flight of time, having been arrested and the universe, or at least that little spot in which the Klondike rests, turned back some 45 minutes. When it was discovered a few days ago that the time used in Dawson was travelling too swift a pace, was 45 minutes ahead of what it should be, the question of restoring it to its proper place was one that had to be done simultaneously or all sorts of ludicrous misunderstandings and embarrassing situations would arise. A few firms and institutions adopted the new time on Saturday, notably the Electric Light and Power Company, which supplies power to the newspaper offices, and on Saturday morning when the typesetting machines began their daily grind of copy at 8 o'clock it was a quarter before 9 by the old time. Yesterday the churches held their services under the old time, but next Sunday the late risers can sleep 45 minutes longer and still be in time for the professional. The official turning back of the watches was done yesterday at noon, that is at noon by the new time or 12:45 by the old. Constable Lindblad, who has charge of the noonday gun, had a number of visitors who with watches in hand watched him as he completed the electric circuit which discharged the gun. One moment it was a quarter before 1 o'clock, the next it was only noon; the gun had been fired and Time for once had been cheated out of 45 minutes.

DAWSON'S COUNCIL

To Hold First Official Meeting Tonight.

Will Meet in Gold Commissioner Senkler's Court Room Many Aspirants.

This is the to-be memorable Third of March, upon which date Dawson's first city council holds its first official meeting. The mayor and aldermen have been holding meetings nearly every evening in the week, as there was much preliminary work to be done before the body was ready to deliberate and legislate in public. Some of these meetings have been prolonged to a late hour in the night, but what has transpired thereat has been kept secret.

The first public meeting will be held at eight o'clock this evening. It was arranged by Commissioner Ross that the council should have the use of the Gold Commissioner's court for its meetings. It will be of no particular use for the candidates for city offices to be in attendance, as only one appointment is likely to be made. This is the position of city clerk, for which there are four candidates and Mr. Shepherd is not one of them. The names are: J. T. Bethune, Dr. Edwards, Fred Ally and Major Cunningham.

The first procedure will be the passing of rules of order and procedure, and as these have already been well threshed out at the preliminary meetings there is not likely to be any discussion upon them. The council will then proceed to ballot for a city clerk and the fortunate gentleman having taken his seat the council will proceed to the appointment of committees. In all probability these appointments have already been made by the mayor, and there will be nothing to do but to read them out.

These committees will be: Ways and Means Committee. Finance Committee. Streets and Sewers Committee. Police Committee. Fire Committee. Health Committee.

These will be the standing committees, and other sub-committees will be appointed from time to time as they are needed. To these standing committees will be referred all the applications for city employment. For instance, there are two applicants for the position of fire chief - Seymour Knight and Dan McLeod. These will be referred to the fire committee to report upon at the next meeting of the council. It is probable, too, that the committee will be instructed to report a plan for the complete reorganization of the department.

The police committee will probably have but one candidate before it for the position of chief of police, T. W. P. Smith. But others may be put in later. It is questionable, however, if an outsider will be appointed to the position, as the council at present does not contemplate the formation of a city force, but the making of an arrangement whereby fourteen men of the town police station may be retained for the work. These fourteen men are to be sworn in as city police without resigning their present positions, and will receive a small rate of pay from the city which will be in addition to their present pay as members of the mounted police.

The position of city counsel will probably be filled this evening, as his services will be in immediate effect for the drawing up of ordinances. For this position there are three applicants: O. H. Clarke, D. Donahy and William Walsh. Alex. Macfarlane, who was the clerk of Mayor Macaulay's election committee, is now the law partner of Mr. Donahy.

The health committee will have at least two applicants to consider for the position of health officer - Dr. McArthur, who at present holds that position, and Dr. Sutherland.

It will thus be seen that the proceedings tonight, outside of the customary address made by the mayor when he takes his seat, and which address is generally supposed to be a shadowing of the policy he hopes to follow, are likely to be of a very formal character.

HOTEL ARRIVALS.

Regina Hotel, March 3, 1902. - O. Ransom, Quartz Creek; Robert Anderson, Sulphur; Miss C. Zarjion, San Francisco; Miss B. Zarjion, San Francisco; A. G. Smith, city. Hotel Flannery. - A. Smallemburg.

San Francisco, Cal.; W. J. Daily, Chicago, Ill.; L. G. Anderson, Seattle, Wash.; J. E. Hooll, Bettles, Koyukuk; M. L. Nelson, Bettles, Koyukuk; Nelson B. Smith, Grand Forks; L. A. Jackson, Hunker; Albert Heymann, Grand Forks; Oscar Reynolds, Dawson; W. S. Lawrence, Fortymile; Geo. Chambers, Dawson; Geo. Waterson, Gold Run. Empire. - A. H. Chute, Gold Run; Malcolm MacKinnon, All Gold; J. H. Kalb, Bonanza; H. Murray, city; L. Macdonald, Gold Bottom; Cliff S. Bollong, Gold Bottom.

Where Has It Gone?

That folk to use saw fit; The classic "keep on guessing," The short, expressive "nit," And say, "Wouldn't that jar you?" "You're it," "You simple jay," Is dead, gone and forgotten The slang of yesterday.

What has become of "off his base," Likewise the "goo-goo eyes"? Where is he "tumbled" or was "on," The "I'm from Missouri" prize? The good old "search me" idiom. Has passed likewise away, "Away back" to oblivion, The slang of yesterday.

Has any one seen the "marble heart" Of the genial, gay "glad hand," The "frosty guy" that "freezes" you, Something to "beat the bard"? What was the end of "dropped to it," O, can you tell me, pray, Where are the "dopey" sayings, The slang of yesterday?

Receive Their Sentences. Cassel, Hesse-Nassau, Prussia, Feb. 14. - Five members of the board of supervision of the Cassel Grain Drying Company, charged with concealment of the company's affairs, were sentenced today to from three to seven months' imprisonment. In addition Herman Sumpf was fined 10,000 marks and the others were fined 5,000 marks each.

Send a copy of Goetzman's Souvenir to outside friends. A complete pictorial history of Klondike. For sale at all news stands. Price \$2.50.

DUMPS WILL BE LARGE

Says John Grant, the Inspector of Mines.

Notwithstanding Fact That Big Operators Are Doing But Little Work.

John Grant, the inspector of mines, was in town this morning and in course of a conversation in regard to what was being done on the creeks said: "During last week I spent most of my time visiting Bonanza and Eldorado, and also the claims on the White Channel. I found a great deal of mining activity among them, but by the individual miners and not by the big companies. The latter seemed to me to be doing comparatively little. Notwithstanding this, there is a great deal of ground being operated and the dumps, to my mind, will be large.

"The most serious drawback to mining just now is due to the mild weather, especially where there is pumping to be done. The water pumped, instead of freezing on the surface sweeps down into the next man's workings, and they have to construct ice ditches, one of which is 2000 feet long.

"They have been put to considerable expense making these ditches to carry the water pumped past their diggings, and if this were all it would not be so bad. But it can readily be understood that the water is practically warm when it is pumped from the diggings, and it does not proceed far before it becomes chilled, thereby choking up the ditch channel, so that to keep the ditch open requires the constant effort of several men.

"Taking it all in all, I am rather pleased with the general outlook. The more I see of the different workings of the Klondike country the more I am impressed with its great possibilities and the continuance of the present output for many years to come. One cannot expect the large sums which have been taken out by individual miners in the past to be realized by individual miners now, but taking into account the improved methods that have been adopted the result will for a long time be a fair and good return for labor."

Steamer Ashore
Special to the Daily Nugget.
Jones Inlet, Long Island, N. Y., March 1. - A large steamer is ashore here on the south shore. The seas are breaking over her and her identity cannot be established.

The finest of office stationery may be secured at the Nugget printery at reasonable prices.

LOST
LOST - From Dominion stage, about October 29, 1901, one Canvas Telescope, size 16 by 30 inches, marked "Knitite." Finder return to Orr & Tukey Co., Dawson. c5

Job Printing at Nugget office.

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SOCIETIES
THE REGULAR COMMUNICATION OF Yukon Lodge, No. 79, A. F. & A. M., will be held at Masonic hall, Mission street, monthly, Thursday on or before full moon, at 8:00 p. m. U. T. WELLS, W. M. U. A. DONALD, Sec'y.

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