

delay, for at least 60 days must elapse between the receipt of each application and the disposition of it.

Section 132, which confers on a licensee who discovers valuable mineral in place the right to stake out thereon a mining claim, is, no doubt, qualified by the provision in these words, "provided that it is on Crown lands not withdrawn from location or exploration, and is not included in a claim staked out by another licensee or on lands the mines, minerals, and mining rights whereof have been reserved by the Crown."

This provision was relied on by Mr. McPherson as supporting the contention of the appellant that only one staking out was permissible, and that when once a claim was staked out it was in effect withdrawn from further staking out.

This argument, however, proves too much, for, if well founded, though the original staker-out had omitted for 15 days after staking out his claim to apply for the record of his staking-out under the provisions of sec. 156, and even if his claim were disallowed under the provisions of sec. 58, it would be impossible for any one else, though he were the first discoverer of valuable minerals in place, to stake out a claim.

I see no reason why this provision should not be read as meaning that there shall be no staking out of a claim where one already has been staked out, and a certificate of the record of the staking out has been issued and delivered.

If this be not the true meaning of the provision, the real discoverer would be prevented from staking out his claim if some more alert and unscrupulous licensee should succeed in staking out the claim before the real discoverer had done so.

This view of the meaning of the provision is strengthened if it be, as I have said in my opinion it is, that the right to work the claim mentioned in the concluding part of sec. 132 does not arise until the certificate of the record of the staking out of the claim is issued and delivered.

Upon the whole, I am of opinion that it was the duty of the appellant to receive the applications of plaintiffs as applications under secs. 58 and 156, in order that they might be considered and dealt with by him under the provisions of the Act.