

DOMICILE OF THE LATE MAGNATE

COUNSEL CLAIMS IT WAS IN CALIFORNIA

By Virtue of Description Appearing in His Documents—Judge Coffey's Decision in Frisco.

The decision of Judge Coffey, knocking out the probate of Alex. Dunsmuir's will in San Francisco, was played up by the Bay City press in its customary illuminated style.

Judge Coffey's opinion was a most exhaustive one, and should serve as an important precedent. He says that "it is a new point in this state as presented here. This is a motion made to set aside a judgment because it is void upon its face. It is a direct attack upon that judgment."

"There were other points in that case upon which the judgment turned, but this was the only one pertaining to the discussion here and the ruling thereon could not be considered as authoritative and binding on this case."

"It appears that the testator was domiciled here instead of abroad at the time of his death, and in such cases there should have been original probate in the domiciliary form, which is the principal, primary, original or chief administration, because the laws of the domicile govern the distribution of the personal property, while that granted in any other country is ancillary or auxiliary."

"Attorneys for James Dunsmuir argued that although the papers said he was a resident of California, that did not make him domiciled here. This distinction, although ingeniously elaborated by counsel for proponent, is not tenable under our statutes."

"It should appear upon the case of the record that the formalities prescribed by the code have been in all essentials complied with; it is a requisite that it shall be shown that the will was executed under some jurisdiction and under some law, either the law of the place where the will was promulgated or the law of California; but the record is silent upon information which would authorize an inference or indulge a presumption that the requirements of the statute were fulfilled, even if inferences or presumptions were permissible in the premises."

"According to the San Francisco Examiner the decision of Judge Coffey in San Francisco requires the filing of new petitions for letters of administration, and that incidentally it subjects \$750,000 worth of property to the collateral inheritance tax of \$30,000."

"In the local case hearing Sir Charles Tupper still has the floor. This morning he devoted considerable time to remarks on points of law in relation to undue influence, after which he took up the question of probate. He was proceeding to show that it was necessary for the will to be executed in accordance of the law of domicile, when the Chief Justice interrupted and asked if this point was disputed. Mr. Davis, counsel for the defendant, nodded a negative reply, and Sir Charles was enabled, therefore, to cut this section of his argument short. He then went on with his contention that Alex. Dunsmuir's legal domicile was the state of California. All his documents and his will described him as 'Alex. Dunsmuir of California.' The same appeared in his marriage license and certificate."

"Mr. Bodwell (interjecting sotto voce): 'Yes, and these he took out himself.' 'And,' added Sir Charles, 'these were taken out by Mr. Dunsmuir himself.' Sir Charles knew he couldn't be wrong in accepting this suggestion from Mr. Bodwell, who has had practical experience as well as theoretical knowledge on this latter point."

"In his argument yesterday afternoon Sir Charles dealt with the circumstances of the execution of the will of 1890 at the house of Mrs. Agnew and the extraordinary character of the will. Mr. Lowe, who before the commission in San Francisco flatly contradicted the evidence given by him at the trial here."

CROWN GRANTS TO RESERVED LANDS

IRREGULAR COURSE OF THE GOVERNMENT

Statutes Are Overridden to Allow Property to Pass Into Hands of Speculators.

Reference has from time to time been made to the unsatisfactory way in which the lands and works department is conducted. In this department it would seem that the statutes have no force and the provisions are overridden at pleasure.

One of the most glaring examples of this is afforded in connection with grants being made to various persons of the lands under government reserve about Kitimat. The importance of that point as the likely terminus for a railway has from time to time attracted speculators.

The reserve was placed on the land August 1st, 1899. Since that time there have been a number of crown grants issued to various parties. These crown grants have been issued up to October 12th, 1904, and another one to E. Oliver was prepared January 27th, 1905, though not issued.

The excuse offered apparently for the issuing of these grants is that application was made before the date of the reserve. A number of these applications were made before that period, but several since that date. The application of M. E. Oliver, made per W. E. Oliver, was in October, 1904.

The statute requires that these applications are to be considered immediately after the date of advertising expires, and a search of the records shows that this was done in most of the cases. The applications were refused also, this being written across them in most cases this was about the years 1897 or 1898.

From 1900 up to 1904 a number of crown grants were issued on these applications which had been legally refused and were then irregularly considered.

All kinds of transfers have been made also in the transactions. Applications were made in one name and grants issued in other names.

One instance of this is the granting under South African law scrip of 165 acres to Geo. Robinson. The grant was of course made under the act of 1901, which gives permission to grant 160 acres on unoccupied, unclaimed and unreserved lands. This particular block was applied for by J. E. Church in 1898 and refused. In September, 1903, it was issued to Geo. Robinson, J. E. Church writing granting permission to have it issued in his name.

The full list of names in which crown grants have been prepared is as follows: F. M. H. Raley; Heseckah G. Hall; Geo. L. Anderson; L. M. Clifford and W. A. Robertson; Skeena River Min. Co.; C. Todd, J. A. Donahue and E. C. Stevens; J. A. Carthew; Donald D. Mann; Hugh Sutherland; Wm. McKenzie; T. G. Holt; Geo. Robinson and W. G. Aveling; J. W. Patterson and S. S. Madden; Ernest Temple; Lewis Lusher; Kate Robinson; Geo. Robinson; L. A. S. Stevens; Geo. Robinson; James S. Murray; S. Arden Singlehurst; Niagara Mfg. & Dev. Co.; P. Hickey, Helen Flewinn and D. A. Robertson; P. Hickey, Helen Flewinn, D. A. Robertson, George Rudge and E. Donahue; Gordon Hunter; A. K. Hunter; G. H. Raley; Kate Robinson; M. E. Oliver.

The whole thing seems to have been done in a most irregular way and demands the fullest investigation. In explanation of the transaction it has been at times represented that all this was done in the lands and works department without the knowledge of the chief commissioner. This proves to be incorrect, as in some instances at least the approval of the chief commissioner has been given.

John Oliver, who has had, it will be admitted, some experience in investigating the department of lands and works, has looked very fully into the subject, it is understood, and from time to time has asked questions relative to it in the House. Mr. J. E. Hawthornthwaite has also been employing some time looking into it, and has considerable information on the subject. At the present time it is said that speculators are staking over the property squatted upon about Kitimat Arm.

It is perfectly evident that something will have to be done at this present session to check what promises to prove an unpardonable violation of the statutes by the government.

AN ALTERNATIVE RAILWAY SCHEME

LEGISLATURE ASKED TO TAKE ITS CHOICE

Substantive Agreement Which is Said to Exist Between James Dunsmuir and C. P. R.

The bill regarding the E. & N. sale to the C. P. R. at Ottawa, which it is understood, have to be duplicated in the legislature of the province in order to be of any effect. The members of the House have, it is believed, been approached on the subject and asked to favor such a bill if introduced.

Naturally there is considerable opposition to this and a number refuse to sanction the section which is interpreted as meaning exemption from taxation for the lands for all time. Another phase of the situation, however, has presented itself which is causing some members to view this subject in an entirely different light. It is said that with the falling through of the final agreement a substantive one comes into effect by which the C. P. R. and James Dunsmuir become co-partners in the E. & N. and the company remains as at present, the land being exempt.

The facts in regard to this item are that the S. S. Saxonia came here loaded with one million feet of lumber from Puget Sound and received at this port an additional lot of 183,000 feet, after she was already loaded down. Had she come here in ballast and been fully laden here her pilotage dues would have amounted to about \$8500. The American steamer pilot at \$250 per month, and as she makes but one trip per month to Puget Sound, her American pilotage in and out each trip actually costs her \$250, which is nearly four times as much as similar services would cost at the port of Victoria.

The item in regard to "sick mariners' dues" is correct, but it has nothing to do with the pilotage. It is, however, misleading, because it is made to appear that the dues are 25 per cent. per thousand feet of lumber higher than Puget Sound rates. In consequence of these charges the Kosmos people have increased their freight rates \$1 and \$2 per thousand feet on lumber from this port for Mexico ports over the rates charged by them on similar shipments from Puget Sound. We thought it advisable to take up these charges on at a time, and have come to the conclusion that with regard to this item, the stercoring charges were higher than usual in this instance, because the Saxonia came to this port already loaded, and the lumber taken on here had to be placed in different parts of the vessel where an available space remained. This necessarily increased the cost of loading; but, had the full cargo been loaded here, the stercoring charges would have been less than at any Puget Sound port.

With regard to the Kosmos people increasing their freight rates from this port to Mexico: This has nothing whatever to do with port charges, and no complaint was made by the Kosmos people on that account. The cost to them to freight their cargo to Mexico was so little freight for them to call here for. The expense per diem of a vessel of the tonnage of the Saxonia is about \$900. The cost of the crew, and the cost of the freight to cover the expense of calling here that a higher freight schedule for this port as compared with Puget Sound ports is imposed. Then the question was to persuade the former places to come into line and, in order to insure these clubs financial backing equal to that of the others, it was promised to equally divide the gain and stand receipts of each club on the same basis as those governing other leagues. Both the grand stand and card receipts are to be divided between the home club and visitors. There will be no passes given out. Seattle was chosen as headquarters. The following managers were selected: D. F. Vugdale, Bellingham; J. J. McCloskey, Dugdale; W. Hulén, Everett; Geo. Howlett, Victoria.

"They sell well," says Druggist O'De, of Truro, N. S. "Want any better evidence of the real merit of Dr. Von Stann's Pincapple Tablets as a cure for all forms of impurities, all seeds of disease, out of the blood? That's why Dodd's Kidney Pills cure such a wide range of disease, including Bright's Disease, Rheumatism and Urinary Troubles."

PILOTS' SIDE OF QUESTION GIVEN

REPLY TO REPORT OF BOARD OF TRADE

Claim Charges Are Higher on Puget Sound Than They Are Here—Saxonia Case Cited.

In response to the request of the pilotage committee of the Esquimalt Liberal Association, the local pilots have prepared a statement replying to the report presented by the special committee of the board of trade and published in these columns some time ago. The report is as follows:

"Dear Sir:—In compliance with a request made by a committee from your body, appointed to inquire into the pilotage affairs of the Victoria and Esquimalt district, we, the undersigned pilots of the aforesaid district, beg to submit the following in answer to the published statements recently made by a committee of the Victoria Board of Trade:

"1. The Board of Trade committee in its report dated March 7th says: 'On 1st January the S. S. Saxonia called here for lumber, received 183,000 feet of paid port charges; Pilotage, \$70; sick mariners' dues, \$63.22; harbor dues, \$5; total, \$150.82.' The facts in regard to this item are that the S. S. Saxonia came here loaded with one million feet of lumber from Puget Sound and received at this port an additional lot of 183,000 feet, after she was already loaded down. Had she come here in ballast and been fully laden here her pilotage dues would have amounted to about \$8500. The American steamer pilot at \$250 per month, and as she makes but one trip per month to Puget Sound, her American pilotage in and out each trip actually costs her \$250, which is nearly four times as much as similar services would cost at the port of Victoria."

"The item in regard to 'sick mariners' dues' is correct, but it has nothing to do with the pilotage. It is, however, misleading, because it is made to appear that the dues are 25 per cent. per thousand feet of lumber higher than Puget Sound rates. In consequence of these charges the Kosmos people have increased their freight rates \$1 and \$2 per thousand feet on lumber from this port for Mexico ports over the rates charged by them on similar shipments from Puget Sound. We thought it advisable to take up these charges on at a time, and have come to the conclusion that with regard to this item, the stercoring charges were higher than usual in this instance, because the Saxonia came to this port already loaded, and the lumber taken on here had to be placed in different parts of the vessel where an available space remained. This necessarily increased the cost of loading; but, had the full cargo been loaded here, the stercoring charges would have been less than at any Puget Sound port."

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NORTHWEST BASEBALL LEAGUE ORGANIZED

Meeting Held at Bellingham, When Constitution and By-Laws Were Adopted.

Local fans will be pleased to learn that a four-cornered international league have been overcome. A dispatch from Bellingham announces that organization has been accomplished and that it is intended to draft a constitution and by-laws. When Messrs. Lucas, McCloskey and Dugdale first set out to form such a league they found that the two cities—Victoria and Everett—their respective grand stands and receipts of each club on the same basis as those governing other leagues. Both the grand stand and card receipts are to be divided between the home club and visitors. There will be no passes given out. Seattle was chosen as headquarters. The following managers were selected: D. F. Vugdale, Bellingham; J. J. McCloskey, Dugdale; W. Hulén, Everett; Geo. Howlett, Victoria."

With \$1,100 in the treasury, G. Howlett, manager of the Victoria club, can commence signing his team. He will do so immediately on his return from Bellingham. Training will start in about a week in order that the nine may be in shape to open the season with a series of five games at Vancouver.

The meeting was taken into consideration the outlook is promising and, if the venture is the success expected, next year it will be extended to embrace Seattle and Tacoma, making an exceedingly complete league of six teams.

A special dispatch to the Times from Bellingham to-day says: "The Northwest Baseball League is organized. For four hours yesterday representatives of Everett, Bellingham, Vancouver and Victoria struggled with the formation of the organization and finally brought it into a reality. The constitution and by-laws were adopted. All that remains to be done is to make the schedule and sign the players. The meeting was harmonious and elected the following officers: President and secretary, W. H. Lucas, League directors—Bellingham, J. A. Miller; Victoria, J. E. Wolfenden; Everett, W. V. Hafekorn; Vancouver, A. E. Turk.

"With the exception of a change in the division of gate receipts, the rules are practically the same as those governing other leagues. Both the grand stand and card receipts are to be divided between the home club and visitors. There will be no passes given out. Seattle was chosen as headquarters. The following managers were selected: D. F. Vugdale, Bellingham; J. J. McCloskey, Dugdale; W. Hulén, Everett; Geo. Howlett, Victoria."

step for a pilot and ran his ship on the rocks at William Head; instead, it says: 'There has been only one casualty within the Pilotage Authority limits, namely, the collier San Pedro.' This, we respectfully submit, is proof that the report is not trustworthy."

"The pilots station themselves at the quarantine station, as soon as a vessel drops anchor she is 'spoken' and immediately becomes liable for pilotage."

This statement is also incorrect and misleading. The pilots meet incoming vessels about half-way between the quarantine station and Race Rocks and pilot them into quarantine. The best proof of this is that upon several occasions the pilots have been held in quarantine because of being on board an infected vessel.

With regard to the alleged large earnings of the pilots, this story, like the other statements, when sifted down also proves to be a myth, the average net earnings being in some cases less than is paid to masters of vessels in the regular coasting trade. 100 chains, situated in Cassiar District, B. C.; Commencing at a post planted on the shore line opposite Windy Island marked 'E. G. R. S. W. Corner,' thence east 40 chains, thence north 30 chains, thence west 30 chains or thereabout to shore line, thence along shore line to point of commencement, containing 640 acres more or less."

Notice is hereby given that, 30 days after date, I intend to apply to the Chief Commissioner of Lands and Works for permission to cut and carry away timber from the following lands, situate in Cassiar District, B. C.: Commencing at a post planted on the shore line opposite Windy Island marked 'E. G. R. S. W. Corner,' thence east 40 chains, thence north 30 chains, thence west 30 chains or thereabout to shore line, thence along shore line to point of commencement, containing 640 acres more or less."

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We give full directions, and will be glad to have you call and talk the matter over.

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to construct an electric power plant on the south side of the upper falls of the Kootenay river, about ten miles west of Nelson, for the purpose of increasing the supply of electric light and power within the limits of the city, has been approved.

The following companies have been incorporated: Export Lumber Co., Ltd., capital, \$100,000; Interior Power Co., Ltd., capital, \$25,000; Second Relief Mining Co., capital, \$50,000; Sparwood Lumber Co., Ltd., capital, \$35,000; Wilcox Lumber Co., Ltd., capital, \$200,000.

The American Mining Co. of Anderson City, Indiana, has been registered as an extra-provincial company, capital, \$50,000.

Courts of revision for the Skeena and Islands voters' lists will be held at Port Simpson and George Harbor respectively on May 1st.

The appointment of Abraham Barlow, of Queen's, as stipendiary magistrate for the Cariboo Electoral district has been rescinded.

NEWFOUNDLAND.

St. Johns, Nfld., March 31.—The colonial legislature was opened to-day by Governor MacGregor. The speech from the throne said that for the last four years the colony's favorable balance of trade had averaged a million and a quarter dollars annually. Everything indicated the continuance of prosperity; the fisheries have brought larger returns and the prices have been the highest for years, except in the whole fishery, which was depressed by over-production. Mining and lumbering had also shown good results.

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