

Section 71 may also be referred to. It makes the certificate of record when delivered, in the absence of fraud, final and conclusive evidence of the performance of all requirements of the Act except working conditions up to "that time," and makes the certificate, in the absence of fraud, not liable to forfeiture except for breach or non-compliance with the provisions of the Act in respect to work required by the Act to be thereafter performed on the mining claim.

If I am right in this view as to the position of the applicant for the record of the staking out of a mining claim, one would not expect that the filing of an application by, it might be, one who had no right whatever to a certificate of record, whose affidavit might be a tissue of falsehoods, should have the effect of defeating an honest claimant who was the real discoverer and had complied with the provisions of the Act, but had not succeeded in getting in his application until after the fraudulent applicant had reached the mining recorder's office and filed his application.

It may be said that there is no limit fixed after the discovery of valuable mineral for the staking out of the claim by the discoverer, and that in the case suggested, after the claim of the fraudulent applicant has been disposed of by the mining recorder, the discoverer may stake out his claim and file his application; but what is there to prevent some one else, after a disposition of the application has been made, going to the locality and doing just what has been done by his predecessor, if only he succeeds in getting to the locality before the true discoverer reaches it, and by a repetition of these methods the opportunity of the true discoverer to acquire any right to the claim being indefinitely postponed?

It appears to me that it is a much more reasonable construction to give to the Act, to interpret it as entitling any one who desires to do so, and complies with the provisions of sec. 156, to lodge his application with the mining recorder. What harm would such a course occasion to any one? The mining recorder would have all the claimants before him and would be in a position to settle all disputes and to grant to the person found to be entitled the certificate of record, instead of dealing with each claim separately, which, if there were many claimants, would cause long