JUDGMENT GIVEN FOR THE SETTLER

Mr. Justice Martin's Decision Favors Defendant in Test Case Respecting Rights in E. & N. Belt.

Mr. Justice Martin Friday handed down judgment in the case of E. & N. Railway Company vs. McGregor. His Lordship gave decision in favor of the defendant. This case is the first one brought before the court under the Settlers' Rights Act passed by the legislature two sessions ago. Under the act it was provided that the defence of the settlers' claims in court should be borne by the government. Accordingly A. E. McPhillips, K. C., was retained to defend the first case when it came up in October for trial. Mr. McPhillips was assisted by H. G. Heisterman.

The railway company was represented by A. P. Luxton, K.C., and H. Pooley. Argument, it will be remembered, lasted for days, judgment being reserved.

The railway company contended that the defendant, who had given a crown grant under the act, was not entitled to the coal or timber on the land, nor was it constitutional to make the grant of the land.

The case, it is expected, will be appealed to the Privy Council.

Judgment was handed down by Mr. Justice Martin Friday as follows:

It must first be determined what the legal status of the defendant was at the time he entered upon and occupied the lands in question in 1879. This depends upon the fact of their being reserved or not, from settlement at that time. By section 42 of the Land Act then in force, Rev. Laws B. C., 1871, cap. 144, it is enacted that:

42. The governor shall at any time, and for such purposes as he may deem advisable, reserve, by notice published in the Government Gazette, or in any newspaper of the colony, any lands that may not have been either sold or legally pre-empted.

And in pursuance of the powers thereby conferred a certain area on this Island, including said lands, was reserved, as set out by the orders in council cited; and that reserve, in my opinion, whatever its object, operated against the public generally, including those claiming rights under article 11 of the Terms of Union. The propriety of that valid executive act cannot be questioned here.

Such being the case, the defendant at the time of the passing of the "Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province" (1884), 43 Vic., cap. 14, (commonly called the "Settlement Act" because of the recital in its preamble that it was passed "for the purpose of settling all existing disputes and difficulties between the two governments") had no legal authority for his entry upon and occupation of Crown lands, and hence was merely what is commonly known in this province as a "squatter" thereon; though "squatter" may be included in the term "settler"—Hoggan vs. Esquimalt & Nanaimo Ry. Co. (1894), A. C. 429 at 436-7. It is manifest that if the defendant is to be considered as being a squatter at that time, he can only save himself by relying upon the "Vancouver Island Settlers' Rights Act, 1904." That is a statute, of a very unusual kind, and it is a public and general one, and contains this exceptional section:

4. The rights granted to the settler under this act shall be asserted by and be defended at the expense of the crown.

This gives a significant indication that the legislature was aware that it was legislating in a manner quite out of the common, and in a matter wherein litigation was to be expected, and was prepared not only to confer unusual benefits, but to support and assist the beneficiaries in their enjoyment of the rights conferred.

Reading the act with the preamble and this section as a key to its true intent and meaning, and bearing in mind that as it is a public and general statute statements of fact therein continued must be accepted as being accurate (Attorney-General of B. C., vs. Ludgate, 1901-4, 8 B. C., 242; 11 B. C., 258.) I have no doubt after a careful perusal of it, what one of its chief objects is, i. e., to recognize squatters as being entitled to special rights in the premises; to treat them in fact as if they had been in occupation of unreserved crown lands pursuant to the Land Act. This view is specially supported by the first paragraph of the preamble referring to "certain persons . . . who have been unable to obtain titles in fee simple to the lands occupied by them," by the reference to certain "decisions of the courts that the land was not open for settlement," and to the succeeding recital. There is, however, no doubt about the point, for the definition of the word "settler" in section 2 (b) is clear and far-reaching:

"Unless the context otherwise requires:

(b.) "Settler" shall mean a person who, prior to the passing to the said act, occupied or improved lands situate within the said railway land belt, with the bona fide intention of living thereon.

This language includes the defendant, for I can see nothing in the context to warrant my excluding him, and he is therefore entitled to claim the benefit of the act if he has conformed to the requirements of section 3, which he has done, and has consequently received a crown grant in fee simple "in accordance with the provisions of the Land Act in force at the time said land was first so occupied or improved by said settler." It is clear to me at least, that the legislature passed this peculiar statute with the object of remedying some real or fancied hardships which had been brought to its attention in consequence of the litigation referred to, and that it intended to implement and put a new interpretation upon the Settlement Act, which should place certain early squatters as well as others in an assured position as against all the world.

It is admitted that the legislature in dealing with "property and civil rights in the province" is paramount because they come within its exclusive control by virtue of the B. N. A. Act, section 92, s. s. (13.) The learned counsel for the plaintiff not unnaturally protested against the passage of legisaltion of this questionable class as being equivalent to confiscation of private property, but as the Lord Chancellor recently said in Musselburgh Real Estate Co. vs. Provost of Musselburgh, 1905, A. C., 491, at 497:

"Now, my Lords, it is said, and I think justly said, that it is contrary to the policy of parliament to take away rights—to give anything in the nature of property to others without giving compensation for it. But I think, on the other hand, it must be frankly admitted that where you are dealing with public necessities and public security, parliament does sometimes do that. As it has been pointed out, it does it with respect to roads, and I think it does it with respect to harbors also."

Doubtless, it is quite true, as the same counsel submitted, that where two constructions are reasonably open the court will lean to that which will not work an injustice. But where the meaning is plain, as here, it is the duty of the court so to construe it, and whatever may be the consequences of that result they form part of the burden of responsibility which the legislature deliberately assumed when it passed the statute presumably in the public interest. In regard to this point of there being no compensation for this appropriation, I have not overlooked Mr. McPhillips' argument that lands in contiguous areas are to be made good to the Dominion in lieu of lands alienated, as provided by the 11th article of the Terms of Union, and by section 5 of the Settlement Act. But it is at least doubtful if such provisions have reference to the present case, because article 11 refers only to lands "which may be held under pre-emption right or by crown grant," and the defendant did not originally so hold. And section 5 is limited to "lands equal in extent to those alienated up to the date of this act," etc. It is not, however, strictly necessary to express a final opinion on this point, but I mention it to show that I am not favorably impressed with the contention that the plaintiff company will be able as a matter of legal right to obtain compensation for the lands it has been deprived of.

Such being my view of the matter it is unnecessary to consider at length the question of the existence of the prior letters patent from the crown in favor of the plaintiff company under the Settlement Act, because where the legislature with full knowledge thereof declared by a public and general enactment that others were entitled to antagonistic rights therein, the last word of the legislature on the subject must prevail. No authority, as might have been expected, could be found on the exact point, which differs radically from such cases as Victor v. Butler (1901), 8 B. C., 100; 1 M. M. C., 438; Alcock v. Cooke (1829), 5 Bing., 340; or Great Eastern Railway Co. v. Goldsmid (1884), 9 A. C., 927; but to my mind it presents no practical difficulty. The peculiar result may, I think, also be regarded as somewhat akin to that in the Colonial Secretary of Natal v. Behrens (1889), 58 L. J. P. C., 98, viz., there has been, without compensation, and by virtue of subsequent legislative authority, a lawful resumption of possession (here constructive) of lands alienated to a subject, upon which the right of that subject is pro tanto extinguished and reverts to the crown, p.-100.

On the whole case, in the face of the act, I cannot bring myself to say, as prayed, that the defendant has no right, title or interest in the coal or timber on said lands, nor can I see how he can be enjoined from working or felling the same.

It follows that there is no other course, in my opinion, open to me than to dismiss the action with costs.

Victoria, B. C., 29th December, 1905.

A CHRISTMAS GREETING.

...mier McBride's Message to the People of the Dominion.

...hristmas greetings from ... of the Dominion, which ... the Toronto Globe, ... he Premier of this ... McBride. It is as ...

... great Pacific prov... I embrace this op... ding the season's ...le of Canada. As ... great reason to ... istmas-tide with ... to feel grateful ... we enjoy in our ... last day of a ...ax to Victoria it is ...g task to tell of the mighty strides that Canada is making and the marvellous evidences of material prosperity that meet the eye everywhere. While 1905 must go down in history as a period of great commercial and national development throughout the Dominion, present indications point to still greater advancement. To British Columbia the year just closed has brought a bountiful harvest, the natural wealth of the country, her soil, her forests, her mines and her fisheries, yielding abundantly to the enterprise of a thrifty and contented people."

—The Victoria-Otter Point telegraph line has been put in order again. Thos. Gordon, who is in charge, has completed the 40 miles of inspection and repair.

SUCCESSFUL MEETING.

Victoria West Lodge, I. O. G. T., Entertained on Wednesday Night.

Although the weather was anything but favorable on Wednesday evening, a good number of members and visitors attended the meeting of the Victoria West Lodge, No. 29, I. O. G. T., at Semple's hall.

The C. T., Sister Lewis, occupied the chair, and conducted the business of the lodge.

During recess expressions of welcome were accorded to the officers and members who had been unavoidably detained at their homes during the past few weeks.

On again resuming business, the chief templar of Triumph Lodge announced that arrangements had been made for the party visiting Cedar Hill on Saturday, to leave the Soldiers and Sailors' Home at Esquimalt at 7 p.m., stopipng at Craigflower road and the Fountain en route.

Sister Egilson, a visitor from Vancouver Lodge, tendered the fraternal wishes of that lodge to Victoria West Lodge, which were received with applause.

A short but excellent programme was then carried out as follows: Bro. Blackman, song; Sis. Furman, reading; Bro. Semple, song; Bro. Blackman, song; Bro. Andrews, reading; Bro. Robinson, song: Bro. McIntyre, song; Bro. Waller, reading; Bro. Wilkes, song.

The lodge was then closed, after which light refreshments were served, terminating with a grand march, The Circle of Unity, and singing of Auld Lang Syne.

—The marriage too place Thursday evening at St. Andrew's Presbyterian church of Mr. Clement A. Haynes, bookkeeper for Nicholles & Renouf, and Miss Margaret McKenzie, daughter of Mr. Alex. McKenzie. The ceremony was performed by Rev. W. Leslie Clay. Miss Jessie Fairful and Lily Bennett attended the bride, while Messrs. R. Wilson and H. Moore supported the groom. Mr. Jesse Longfield presided at the organ, and as the wedding party took their places the choir, of which the bride was a member, sang "The Voice That Breathed 'Ore Eden." The party left the church to the strains of Mendelssohn's Wedding march. A reception was held at the home of the bride's parents, Milne street. The numerous and costly presents testified to the popularity of the bride and groom. The honeymoon will be spent in Vancouver.

EARN CASH

In Your Leisure Time

If you could start at once in a business which would add a good round sum to your present earnings—WITHOUT INVESTING A DOLLAR—wouldn't you do it?

Well, we are willing to start you in a profitable business and we don't ask you to put up any kind of a dollar.

Our proposition is this: We will ship you the Chatham Incubator and Brooder, freight prepaid, and

You Pay No Cash Until After 1906 Harvest.

Poultry raising pays.

People who tell you that there is no money in raising chicks may have tried to make money in the business by using setting hens, as hatchers, and they might as well have tried to locate a gold mine in the cabbage patch. The business of a hen is—to lay eggs. As a hatcher and brooder she is outclassed. That's the business of the Chatham Incubator and Brooder, and they do it perfectly and successfully.

The poultry business, properly conducted, pays far better than any other business for the amount of time and money invested.

Thousands of poultry-raisers—men and women all over Canada and the United States—have proved to their satisfaction that it is profitable to raise chicks with the

No. 1— 60 Eggs
No. 2—120 Eggs
No. 3—240 Eggs

CHATHAM INCUBATOR AND BROODER.

"Yours is the first incubator I have used, and I wish to state I had 52 chicks out of 52 eggs. This was my first lot; truly a 100 per cent. hatch. I am well pleased with my incubator and brooder. THOS. MCNAUGHTON, Chilliwack, B.C."

"My first hatch came off. I got 170 fine chicks from 190 eggs. Who can beat that for the first trial, and so early in the spring. I am well pleased with Incubator, and if I could not get another money could not buy it from me. Every farmer should have a No. 3 Chatham Incubator.—F. W. RAMSAY, Dunnville, Ont."

"The incubator you furnished me works exceedingly well. It is easily operated, and only needs about 10 minutes attention every day. R. MCGUFFIE, MOOSE JAW, Assa."

The Chatham Incubator and Brooder is honestly constructed. There is no humbug about it. Every inch of material is thoroughly tested, the machine is built on right principles, the insulation is perfect, thermometer reliable, and the workmanship the best.

The Chatham Incubator and Brooder is simple as well as scientific in construction—a woman or girl can operate the machine in their leisure moments.

You pay us no cash until after 1906 harvest.

Send us your name and address on a post card to-day.

We can supply you quickly from our distributing warehouses at Calgary, Brandon, Regina, Winnipeg, New Westminster, B.C., Montreal, Halifax, Chatham. Address all correspondence to Chatham. 314

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Let us quote you prices on a good Fanning Mill or good Farm Scale.

LEAD INDUSTRY IN THIS PROVINCE

INTERESTING OUTLINE BY MR. G. O. BUCHANAN

He Predicts a Bright Future For it as a Result of Recent Work and Bounties.

Mr. G. O. Buchanan, government inspector under the Bounties Act, contributes the following interesting resume of work in connection with the industry to the mining review number of the Nelson News:

The list of mines that have shipped lead to British Columbia smelters may lend preliminary illumination to the subject.

From the returns that have been published monthly in the News I gather the following names:

St. Eugene, Sullivan, Slocan Star, North Star, Payne, Ivanhoe, Idaho, Highland, Reco, Ruth, Rambler-Cariboo, Ymir, Arlington (Erie), Alice, American Boy, Antoine, Bismarck, Bosun, Cinderella and Todford, Comstock, Elkhorn, Enterprise, Fisher Maiden, Hewitt, Jackson, Last Chance, Lucky Boy, Majestic, Mercury, Monitor, Mountain Con, Neepawa, Nettie L, Paradise, Providence, Province, Red Fox, Silver Cup, Sunset, Triune, Tecumseh, Wakefield, Whitewater, Sovereign, Pontiac, Athabasca-Venus, Wilcox, Wonderful, Miller Creek group, Echo, F. H. Hawkins, Lorna Doone, Canadian King, Bonanza, Nansen, Hampton, H. & I. Rustler, Ethel, Florida, Black Prince, Victor, Marion, Whitewater Deep, Dundee, American, Dalphine, Defiance, Geo. Reggie, Goldbug, Gold Park, Hartney Group, Horseshoe, Keystone, Mohican, Vancouver, Waterloo, Sally, Tremont, Westmount, Arlington (Slocan), Wm. Chamberlain, Charleston, Chambers, Empire, Empire (Camborne), Elkhorn (Slocan), Graphic, Helen, Kootenay Chief, Lightning Peak, Lone Bachelor, Lily May, No. 1, Ore Hill, Last Chance (Republic group), last Chance (Phoenix), St. Kaverne, Silver Hustler, Jo Jo, Bad Shot, Zuni, Winona, Silver Belle, Spyglass, R. R. Lee, Edna No. 2, Silver Queen, Golden Era, W. R. Winstead, Silver Leaf, Mountain Meadow, E. P. U., Queen Dominion, Skylark, Lucky Jim, Silver Cloud, Black Grouse, Waverly, Gibson, LaPlata (formerly Mollie Gibson), Slocan Boy, Wellington, Cowboy, Crescent, Lou Dillon Bay, Omega, Queen, Emily Edith, Mountain Light, A. W. Munroe, Rambler, Tamarac, Riverside, Bounty, Combination, Daniel, Krao, Standard, Noonday, Home Run, Greenhorn, Mountain Boomer, Willow Grouse, Yankee Girl, Crescent (Greenwood), Blend, Canadian Group, Flint, Nil Desperandum, Vulture, Highlander, Noble Five (T. L.), Nettie M., K. P., Native Silver, Bell, Goldfinch, Arizona, Mountain Goat, Black Warrior, Baby Ruth, Chapleau, Eva, Coronado, Copper Chief, Bonnie Belle, Juno, I. X. L., International, Evening Star, Challenger, Black Hawk.

Of this list of 200 names many represent prospects from which only trial shipments have been made, many others are gold, silver or copper mines with lead contents of subsidiary importance, and of the whole list only about forty are mines which have shipped during the last two years 50 tons or more of lead.

As to geographical distribution, the Coronado is in the Skeena mining division. Two small shippers are at Albert Canyon on the main line of the C. P. R., the Paradise, Dolphin, and half a dozen others are near Windermere, N. E. Kootenay, the Ymir, Arlington and a dozen others are on the line of the N. & F. S. railway; another detachment of 15 or 20 is found in the Boundary districts; twenty more are in the Trout Lake and Camborne districts; one, the Alice, is at Creston. The St. Eugene, by all odds the "whale," is at Moyie, with no other mine of any kind within 30 miles. The Sullivan (next in size to the St. Eugene) and the North Star (until lately one of the very largest shippers) are close together at Kimberly, with no other producing mines near them, the balance (constituting a big majority) are on the island outlined by the waters of Kaslo river, Seaton creek, Slocan lake and river, and Kootenay lake and river.

Every creek that comes down from the interior heights of this tract, Kokanee, Woodburk, South Fork Kaslo, South Fork Carpenter, Four-Mile, Ten-Mile, Lemon, and a dozen others is followed by a wagon road, and every wagon road leads to lead producing mines, some of them famous as amongst the richest silver mines in the world, as well as for being up to 50 and 60 per cent. in lead.

The production for the calender year (December estimated) has been as follows:

Hall Mining & Smelting Co., Nelson	17,785,862 lbs. lead
Canadian Smelting Works, Trail	12,754,901 lbs. lead
Elsewhere in B. C. (Sullivan)	11,206,169 lbs. lead
Exported in ore to Europe	15,525,835 lbs. lead
	57,272,767 lbs. lead
Equal	28,636 tons
Output, 1904	20,000 tons
Increase	8,636 tons

Except for the blank in shipments from the St. Eugene caused by damage to their works by fire (the months of October and November having been practically lost) the output for 1905 would have gone close to that of the banner year 1900, which was 31,679 tons.

For the fiscal year ending June 30th, 1905, the returns to the department of trade and commerce for bounty purposes shows as follows:

Lead delivered to B. C. smelters	33,704,932 pounds
Exported to Europe	21,972,999 pounds
Total	55,676,931 pounds
Equal	27,838 tons
Bounty earned, home smelted lead	$240,058 71
Exported, lead	97,157 30
	$337,216 01

For the year ending June 30th, 1904, the figures were: Lead production, 13,397 tons; bounty earned ,$195,283.90.

On November 29th, 1904, lead was quoted in London at £12 12s. 6d., and the rate of bounty payable was reduced, the rate of diminution being 1.3579 cents per 100 pounds of lead for each advance of one shilling and threepence above £12 10s. The whole bounty being wiped out by 57 of such advances.

The price went to £13 8s. 9d. on January 6th, fell to £11 17s. 6d. on March 3rd, rose to £12 11s. 3d. on April 4th, and from that time has steadily climbed; £16 was reached on November 29th, and the extinction of bounty payments for the time being was accomplished.

On December 12th £17 8s. 9d. was reached, but at the moment of writing this the quotation stands £17 2s. 6d.

The extremes or variation for the last five years have been: 1900, September 15th, £13; 1902, January 14th, £10 5s.; 1903, March 12th, £13 15s.; August 16th, £10 18s.; 1905, December 12th, £17 8s. 9d.

That lead will remain permanently above £16 is not to be expected, but it is probable that we have seen the last of £12 lead. The predominant influence of the American Smelting & Refining Company, not so much in favor of an extremely high price, is beginning to be internationally felt, and there is beyond that universal testimony to the fact that the legitimate demand for lead has overtaken the supply, that the demand is growing and bound to grow, and the sources of fresh supplies are not in sight.

Of our home smelted product the electrolytic refinery at Trail is now treating 50 tons per day, or at the rate of 18,000 tons per annum. At the present moment the refinery is busy with orders for Canadian consumption, and it is probable that we can count the Canadian market as good for, from this time onwards, 18,000 tons per annum.

The product of the Trail refinery in both silver and lead excel in purity any hitherto produced upon a commercial scale, and both metals command a premium in competition with the product of other refineries.

The year has introduced an era in the provision of lead smelting facilities. In the early spring the Sullivan Company's new smelter went into blast at Marysville in East Kootenay.

This smelter has two stacks of a capacity of 100 tons per day each, only one of which is yet in operation, and the appointments and machinery embody the most modern features.

With commendable enterprise this company installed as a part of their plant a Huntington-Heberlien outfit of ovens and pots for ore roasting.

While nothing as to results has been given out by the company the fact is patent that the smelter has run almost continuously, with no ore supply except that afforded by their own mine, a grade of ore with some reputation as difficult, from a smelting standpoint.

That the object lesson has not been lost is evidenced by the fact that at both the Hall Mines and Trail smelters similar roasting plants are under erection.

The Hendryx smelter at Pilot Bay after eight years of idleness is undergoing renovation at the hands of the Canada Metal Company, and it is announced that the lead stack there will soon be in commission.

The latter company, of which C. Fernau, M. I. M. B., is manager, and which has almost completed at Frank, Alta., a massive establishment for the treatment of zinc ores, proposes to have also a lead stack at an early day at Frank. This multiplication of smelters and introduction of metallurgical economics, should certainly foreshadow better treatment rates for the producer at an early day.

The subject of zinc will no doubt be fully dealt with elsewhere in your paper, but it may be mentioned here that some profitable disposition of the increasing quantities of zinc ore developed in connection with lead mining in the Slocan and Ainsworth comps had become the most serious problem confronting the mine owners.

The problem has been attacked from all sides by local enterprise in the installation of separating plants, by foreign capital in the erection of the magnificent works at Frank, and by commission of inquiry under the direction of the most eminent living specialists employed by the Dominion government.

As items of special interest we have room for but few.

The long tunnel on the Rambler-Cariboo is scheduled to reach the ore body (at least the place where it ought to be) on May 1st.

Ore from stringers recently cut has shown values similar to those for which the shipments from the upper workings were famed.

The Monitor and Ajax fraction mine after a prolonged suspension of production has again entered the list of shippers, and its mammoth and completely equipped concentrating mill at Rosebery is in successful operation.

In the Ferguson camp the Silver Cup mine has large quantities of ore in sight and is ready to ship heavily.

The LaPlata mines on Kokanee creek (we once spoke familiarly of them as the Molly Gibson) have concentrating works installed and a bright future outlined.

A question of "Apex rights" growing out of the 1892 Mineral Act, of which the contestants have been Mr. J. M. Harris of the Reco mine, and the Byron N. White, has resulted in much prosperity to the legal and mining expert fraternities, and to a decision which for the present upholds the apex rights of the Byron N. White Co.

The Ivanhoe after holding for some years a place near the head of the procession as a shipper, has paused to take breath, and recover its ore bodies.

The old time "Blue Bell," now in the hands of the Canada Metal Co., is being put in shape for heavy production, and will be an important factor in feeding the works at Pilot Bay and Frank.

In the Slocan camps the "leasing system" has come to stay, having proven profitable to both parties concerned, and the Payne, Whitewater, Whitewater Deep, Wakefield, Lone Bachelor, Hewitt, Emily Edith, and a host of others are under operation on that basis.

Extensive works for the corrosion of lead were established during the year in Montreal by the Carter White Lead Company.

The contract for their supply of pig lead for a term of years is held by the refinery at Trail. Their method of corrosion is new and improved, and this, coupled with the perfect freedom from adulteration of the lead from Trail, has enabled them to put upon the market a grade of paint lead never equalled.

The works are rushed with orders, and their requirements of raw material accordingly increased.

Largely as the result of the persistent agitation begun and for the last seven years carried on in this district, the finance minister carried through parliament at its last session a bill increasing the duty upon corroded lead from 5 to 30 per cent.

At a sitting of the tariff commission held in Nelson in September interested parties were heard upon the subject of an increase in the duty upon other lead products (including pig).

The tariff commission is expected to report at the coming session.

In this connection it may be mentioned that the finance minister has the prospect of a grateful relief in the matter of lead bounty payments for the current fiscal year.

Under the dwindling rates at which bounty has been payable since July 1st, the earnings have been kept down to about $80,000, and should lead remain above £16 until June 30th, the surplus will be larger by $420,000 than was expected.

SUDDEN DEATH.

O. L. Spencer, of Vancouver, Passed Away in San Francisco.

A telegram was received in Vancouver Thursday by J. H. Senkler announcing the rather sudden death in San Francisco of O. L. Spencer, of Vancouver. The news came as a great shock to relatives and friends of the deceased, as it was only the day before that Mrs. Spencer received a telegram from him, saying that he was ill with pneumonia, but did not consider it serious.

Mr. Spencer had lived in Vancouver for about ten years, and was well-known and very popular there. He was an enthusiastic yachtsman, and had been secretary of the Vancouver Yacht Club since its organization, and was also closely connected with the bicycle club. He was also a prominent Freemason.

Born at Harpenden, Hertfordshire, England, the eldest son of Rev. Leigh Spencer, rector there, and afterwords vicar of Renhold, Bedfordshire, the deceased was educated at Laming College, Sussex, and read with private tutors for the English bar. He was articled to George Nelson, a well-known legal firm, at Buckingham, and was transferred to Toronto in 1880, where he completed his articles in the office of the late Hector Cameron, Q. C., with whom he finally became a partner. He was then secretary of the Royal Canadian Yacht Club. Ill-health, of a rheumatic form, brought him to New Westminster, B. C., in 1891, where he qualified for the British Columbia bar, in Armstrong, Eckstein & Gaynor's office, removing to Vancouver a year later, where he was practising law till his death. The deceased leaves a widow, the eldest daughter of P. A. Macdougald, of Oakville, and three children, Leigh, in the Crow's Nest Coal Company, Fernie, and Cyril and Dorothy; two sisters.

GAZETTE NOTICES.

(From Friday's Daily.)

This weeks' Gazette contains a copy of a minute of council passed by the Dominion government, in which reference is made to the question of the constitutionality of the provincial act to amend the Companies Act by which it is enacted that an extra-provincial company must pay $250 before being granted leave to carry on business in the province. On the recommendation of the Minister of Justice the act was not disallowed, it being deemed a question for the courts to decide as to its constitutionality.

The boards of examiners for the various coal mines are given in the Gazette as follows:

For the Cumberland colliery: Appointed by the owners, Charles Matthews; alternates, David Walker, John Combs. Appointed by the Lieutenant-Governor in Council, John Kesley. Elected by the miners, James Reid; alternates, Thomas Ripley, Joseph Horbury.

For the Extension colliery: Appointed by the owners, James Sharp; alternates, Alex. Bryden, Alex. Shaw. Appointed by the Lieutenant-Governor in Council, W. G. Simpson. Elected by the miners, Thomas Doherty; alternates, Wm. Anderson, Benj. Berto.

For the Nanaimo colliery: Appointed by the owners, Thomas Mills; alternates, George Wilkinson, Charles Graham. Appointed by the Lieutenant-Governor in Council, Thomas Budge. Elected by the miners, George Moore; alternates, John R. McKenzie, George Johnson.

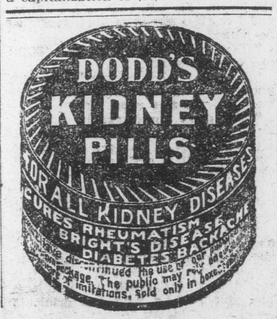
For the Michel colliery: Appointed by the owners, A. R. Wilson; alternates, Wm. Powell, Thos. Corkill. Appointed by the Lieutenant-Governor in Council, Evan Evans. Elected by the miners, James Wylie; alternates, Sidney Bert, Joseph Thomas.

For the Coal Creek colliery: Appointed by the owners, David Martin; alternates, Andrew Colville, John Hunt. Appointed by the Lieutenant-Governor in Council, John McCliment. Elected by the miners, J. H. Suggert; alternates, Wm. Moore, Chas. Webber.

W. H. Kergin, M. B., J. P. of Port Simpson, has been appointed a medical health officer for the province.

The Atlin Consolidate Mining Company, of Denver, has been registered as an extra provincial company with A. S. Innes, of Victoria, as attorney for the company.

The Daily Advance Publishing Company, Ltd., has been incorporated with a capitalization of $10,000.



SALVAGE STEAMER CAN DO NOTHING

WAS NEWS FROM THE SALVOR LAST NIGHT

Crew of Local Vessel However Will Search Coast Line Before Returning.

Last night H. F. Bullen, of the B. C. Salvage Company, Esquimalt, received a telegraphic message from Capt. Harris of the steamer Salvor, sent to the scene of the Pass of Melfort wreck on Thursday morning, stating briefly that nothing can be done. The message was forwarded from Ucluelet, and it creates the impression that the wreck has disappeared. The Salvor reached Amphitrite Point at an early hour yesterday morning. Her instructions are for a search to be made along the coast and for the removal of the bodies recovered to Victoria. The search will be made in small boats if the weather permits, and in this manner some important discoveries may be made not only with respect to the Pass of Melfort but the Fawn and another vessel that is known to have gone down in recent storms.

These wrecks have emphasized the necessity for some life saving equipment along on the West Coast of Vancouver Island, and something along this line may be done before the winter passes. At a meeting of the council of the board of trade held yesterday afternoon, after the Times went to press, it was decided to communicate with the department of marine and fisheries at Ottawa at once, urging the necessity of having the whaling steamer Orion available at all times for rendering assistance to a wreck. The Orion operates immediately in the vicinity of where the major number of the West Coast wrecks have occurred, and as her headquarters are at Sechart, it was further resolved at the meeting yesterday afternoon to ask that the whaling station be attached to the telegraphic system.

With reference to the Pass of Melfort a Tacoma dispatch says: Capt. Peter G. Niven, of the steamer Wyneric, loading lumber here for Panama, believes the British barque Pass of Melfort was lost on account of the sickness and consequent incapacity of her crew. The Wyneric and the Melfort were both at Panama for weeks together prior to the sailing of the Melfort for the Sound, and Capt. Niven is well acquainted with the conditions on board the ill-fated vessel.

"The Wyneric arrived at Panama in September and I found the Pass of Melfort ballasting," said Capt. Niven to-night.

"Capt. Scougal, of the vessel, shifted from the wharf out to several small islands, where he completed ballasting, while I took his berth. For weeks the Melfort remained at the islands unable to get away on account of the low fevers infecting the men, and when the vessel sailed two weeks before I did, which was November 20th, Capt. Scougal was compelled to send some of his sickest men ashore. The malignancy of this malaria can hardly be exaggerated.

"On the way up all my men were at one time sick, and I had to put in and remain for a week at Acapulco. Many times I had but one man attending to the nine fires beneath my boilers, and I myself had to take watch. Fifteen of my men are now in hospitals of Tacoma. I believe Capt. Scougal had the same misfortune, and God help the vessel that, with a sick crew, gets into such a storm as we have had for the past few days on a rough coast.

"The pity of it is that Capt. Scougal, who was a bright, active man of 55, had recently married a young wife, whom he left behind in England. Strange fatality has pursued him. He quit the sea some years ago and for the past three years has been in business in the south of England. The captain of the Pass of Melfort died about a year ago and her first officer was promoted to be captain. He went to the dogs drinking, and the owners, knowing Capt. Scougal's ability, induced him to come to this coast and take the ship for at least one voyage.

"I believe the owners came near selling the vessel while she was at Panama. Capt. Scougal received orders to cease taking on ballast, and he was expecting to be notified of her transfer when orders came to continue ballasting. He was a kindly, good man, well liked by his crew, and made friends readily. Before his temporary retirement he was master of several of the vessels of the Pass line."

A Port Townsend dispatch says that officers of the steamer Charles Nelson, which put back to that port after a rough experience off the Cape, believe that they sighted the Pass of Melfort at 11 o'clock Christmas night, and passed her while the barque was on the port tack, tight-reefed before a southwest gale blowing at the time.

The second mate of the Nelson was on watch at the time, and as the Nelson passed the vessel to the starboard while going off shore the captain and second mate discussed the matter as to the identity of the barque. The Nelson passed across the bow of the barque, so close that the cabin lights were plainly visible. At that time the barque was well off and somewhat below Cape Flattery. The vessel sighted was not in distress at the time, and appeared to be close-hauled awaiting a chance to get into the strait or tow.

One thing that may have been added somewhat to the chances against the ill-fated barque in her effort to keep off the rocks of the Vancouver Island shore, according to local shipping men, was the fact that she must have been very foul. They claim that the vessel was foul when on the Sound the previous trip, and since that time she had made a trip to Ancon, not having been cleaned previous to the voyage. The condition would have have made handling of the vessel difficult, and may have turned the scale at a critical time.

The Pass of Melfort was well known around the Sound and in Seattle. The vessel was there last May and later loaded a cargo of lumber at Port Blakeley for Valparaiso, Chile. Capt. Scougal has many friends in Seattle. Men connected with the docks remember him as one of the jolliest and most jovial skippers that entered that port.