

say—"give reason to expect, give a knowledge of, shew as something existing or taking place" (Standard); "point out, shew, suggest, serve as a reason or ground for inferring, expecting," &c. (Century). The word in this statute must be interpreted in view of the subject matter and of the remainder of the affidavit required. And if the deponent is in possession of facts which will entitle him honestly to say that what there is on the land does not indicate to him that the land is not open—that is, "does not serve as a ground for inferring" that the land is not open—I think he may well take the affidavit required. And I do not think that the mere fact that he adds, for the greater caution, that there are applications the validity of which he is disputing, is fatal. The "except" clause in the present affidavit is not very happily placed or worded. Apparently the only noun which can be qualified by this clause is the word "nothing" in the first line, and in respect of that the applications are not on, i.e., in situ upon, the lands at all.

I am of opinion that, as regards the affidavit, the form is not fatal; and that, as regards McNeil, the only matter which requires consideration is his right to stake at all. He asserts that the alleged discovery and staking under claim 10263 are a bare-faced fraud. The Commissioner in his former judgment seems to agree with him. If that be so, no discovery having in fact been made, the provision of sec. 134 that the staking shall be after the discovery (and cf. sec. 132) has not been complied with, and sec. 166 works an abandonment. The claimant McNeil then cannot be barred by this alleged discovery or staking.

Then as to 10332 1-2, he says that this should not have been recorded; there were not a real discovery and a real staking. As we have seen, the Commissioner thought in his former judgment that this contention was well founded, that, if the appellant in that proceeding, H. A. McNeil, had any locus standi, he (the Commissioner) would without hesitation find that this application should not have been recorded; and I must say that the evidence is very strong that the contention of the present appellant McNeil is well founded.

In my view, the Commissioner, in investigating the status of McNeil, must, if no other objection appears, determine as a fact whether the staking, &c., of Plotke were in accordance with the Act, both in respect of the manner of staking and in respect of whether the staking was preceded by a genuine discovery. If Plotke is entitled to be held as having in all