

THE KLONDIKE NUGGET.

VOL. 2 No 10

DAWSON, Y. T., SATURDAY, FEBRUARY 4, 1899

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"NUGGET" IN COURT

The Tramroad Without a Tram Produces no Witnesses.

THAT IT IS AN OBSTRUCTION TO TRAVEL IS CONCEDED.

The Argument and Decision Reserved Until Saturday Morning.

And Then We'll See Whether the Toll-trail is to be Permitted to "Graft" its "Graft Upon the People any Longer—The Tramroad Without a Tram Does not Try to Convince the Judge That They are Public Benefactors—Will Simply Argue on the Yukon Council's Right to Inflict This Tramroad Upon Us.

The second chapter in the case of the Nugget vs. The Tramroad was enacted on Thursday when the action was formally tried in the Territorial Court, before his lordship, Judge Dugas. The room was well occupied by people who had been apprised of the calling of the case and much interest was evidenced in their faces as the testimony, which was nearly all in support of the Nugget's contentions, was adduced. Attorney's Pattullo & Ridley appeared in behalf of the plaintiff, while Attorney Tabor represented the tramroad. The attorneys, at the opening of the case, mutually agreed to the submission of several articles as exhibits, namely, the ordinance passed by the council authorizing the grant; the application for the grant; the resolution conferring the same; the letters from Commissioner Ogilvie to defendant relative to the grant; correspondence from H. M. Henning to the council; a letter from Commissioner Ogilvie to the council; a resolution to the rate of tolls being charged on the road; the application of defendant to the minister of the interior for a confirmation of the grant; maps showing the location of the tramroad; O'Brien's ledger, etc.

Without further preliminaries the first witness, I. N. Davidson, was called by counsel for plaintiff and he deposed in substance as follows: Am employed by the Nugget delivering freight, soliciting, etc., was in their employ on Nov. 12th, and left on the morning of that day to cover the Bonanza and Eldorado trails with a dog team and freight to be delivered principally to L. J. Galbraith on a bench opposite 30 below on Bonanza. I saw defendant's roadway and knew where it was. Not more than two and a half miles of it was completed at that date. It started from the toll-gate, near the mouth of Bonanza. I paid \$1.25 to defendant's representative there. There were no seats at the house and the load was estimated at 250 pounds through the way-bill showed it to be 120 pounds. The rate of toll I paid was half a cent per pound. I would estimate the distance from Dawson to the forks at 12 or 14 miles. Only about two and a half miles of the tramroad was completed on November 12th. The brush had been slashed out beyond that, but no grading done, until about 83 below. There were two bridges over the stream, one of them at 96 or 97 below. There was no tramway or poles for the same there then or at any time to my knowledge. There was a bridge in course of construction about a quarter of a mile from the toll-gate which interfered with the bed of the creek. The next bridge was at 96 or 98.

Attorney Pattullo—Would a person walking up the trail in the creek or driving a team of dogs be interfered with by the bridges.

Witness—By the first he would, by the second he might not, as that bridge is over a slough and he could go around. There was but one trail existing and no other way by which miners could go to and fro in the gulch. It was impossible to go up the gulch by the bed of the creek without going on the premises of the defendant.

Cross-examined, witness said—The bridges were incomplete on November 12th. I would not call the roadway a good one now. The bridge interferes at 66 with the trail or creek bed, as if it is too low to pass under and too high to go over. The cribbing is in the bed of the creek. The bridge is five feet high. Dogs could go under, but horses and bulky loads could not. The hill over the bridge would be almost one foot in three, I should think.

Christopher Soumikson was next sworn and deposed in substance, as follows: I am a freighter and have been on the Yukon since '85. I knew the old winter trail on Bonanza followed last winter. It started about half a mile from where the present toll house stands. We first cut through the woods from the Klondike for half a mile to Bonanza, where the trail took the creek and followed it up to

about 37 below, where we cut across a little point, about 200 yards, then we struck the creek again and followed it all the way. I was on the trail about November 13th or 15th last. I followed the course then generally taken, which was along the line of the present tramroad. I considered the road dangerous, at least to my outfit.

This last remark was opposed to by counsel for defense, and in answer to a query, Does the tramroad interfere with the old winter trail? witness appeared to be confused and said: There are a couple of bridges across the creek, but they did not interfere with travel on the 15th, that is, if the people will break a trail. I broke a trail of my own. I had no money to pay the toll. I had much trouble to get up the bank at 65 where the bridge interferes. The bridge at 57 also interferes, as a horse can't get under. There is also a bridge at 51 and 52. I have to get up on top of the bank from the creek trail with my horses in order to get around it. The Court here put in a query and witness said: I objected to paying toll because I could not afford it and I could avoid it by breaking a trail myself around the bridges. On the 15th the bridge at 66 was in course of construction. I had followed the road to that point. Then I drove down one bank and up the other. I could not have driven under the bridge by the old trail.

On cross-examination witness continued: I am still freighting this winter. I follow the pack trail which I made alone mostly. I follow the creek generally when I can; where I can't I pass through the woods. (This last statement, so full of importance to the case, was brought out by direct questions put to the witness by the court.) I avoid the creek bed in places because of fallen trees, brush, etc. Where the bridge is at 66 you must get off the creek and into it again the best way you can. Yes, the bridges are an obstruction to the creek. I can not haul as much this winter as I did last, (witness again became confused) not because of the tramroad, that is, if you will let me explain that I am using a trail I keep up myself mostly. No, I wouldn't hardly think a man could haul as much this winter as last by a creek trail on account of the bridges.

George James next testified to the following effect: I was engaged in mining, but in the early part of October I was working on the proposed tramroad in charge of construction, leaving it about the middle of October. Bridges had been built over the creek then as far as 86 below, the one at that point would not allow a team to pass under. A driver could not pass under without stooping and a load could not pass under if it was a large one. The banks are very steep there and freighters could not get up and down without much inconvenience. I worked for Henning; no, I have not been paid my wages, my account is in dispute. On cross-examination he continued: The trail last winter went under the bridge at 66. I believe there was a cut-off for foot passengers and light freight, but all heavy freighting was by way of the creek. The court here asked witness to describe how the old trail is now impeded, and he replied: By bridges at 86, 67, 61 about 58, about 52, about 50 and several others. As freighting used to be done last winter, all of them would interfere. Freighters cannot pass over or under without inconvenience. I know of no other obstructions to creek travel. On cross-examination he continued: There are a vast number of bridges on the road above those

enumerated and all obstruct freighting. I have been over the trail and know this of my own knowledge. There are a number of places, two in particular that I call to mind, where the tramroad takes the creek bed.

Fred. Gulon was the next witness, he also testified to the location of several of the bridges, and continued: At 66 the bridge was not completed on November 13 to 15 when I was there. We took the dogs off to slide the sled down and then pulled it upon the other side. The bridge is too low to go under and too high to go over from the creek. We had followed the tramroad a part of the way and a part of the time we were on the creek. After reaching 66 we had to get through the best way we could.

E. J. Jensen, a clerk and bookkeeper for O'Brien, presented his ledger in evidence and made some statements on the financial features of the tramroad.

The plaintiff here stated that their case was closed and Attorney Tabor said he believed he would not introduce any evidence, because the facts in the case could not be disputed and they had come to questions of law and jurisdiction. At the suggestion of the Court, the argument was then postponed to Saturday at 10 a. m.

His Lordship took occasion, before arising, to make a few remarks on the status of the case. There are obstructions to the old trail in the bridges of the tramroad, without a doubt, he said, and that must be admitted. He thought the main questions involved were, How far the council could go in such matters with all Dominion lands being administered by the minister of the interior? How far the commissioner could go in conferring grants that interfere with the rights of the people, and if the building of the bridges is in conformity with the terms of the franchise.

Sudden Death of Col. Parker.

The sudden death of Colonel Parker at the Melbourne on Wednesday afternoon caused a ruffle of excitement for a while owing to a rumor of a "mysterious death." The inquest on Thursday morning showed there to be nothing mysterious about his demise; it was simply unfortunate. The colonel is of full habit, some 6 feet 4 inches in height and weighing about 230 pounds. His height, florid face and heavy black mustache made him quite conspicuous on our streets and he was well known to many notwithstanding his late arrival this summer. He came down to Dawson from his home at the Forks on Tuesday. On Wednesday he retired to his room at the Melbourne hotel about 10 in the morning. In the evening the clerk remarked to a friend of Mr. Parker, whom he found down town, that the colonel was in Dawson and was sleeping the forenoon. Knowing the habits of the deceased to preclude such a long sleep, Mr. Kinghorn proceeded at once to the hotel and to the room. It was locked. Proprietor McConnell was notified and broke in the door. Lying calmly upon his pillow, with the bed clothes pulled well up and undisturbed by the signs of any struggle or spasm lay the deceased rapidly growing cold in death.

During the temporary illness of Captain Harper the position of coroner was taken by Captain Starnes. The inquest elicited the fact that Mr. Frank J. Kinghorn knew the deceased intimately. He was a full blooded man and subject to a flow of blood to the head in the nature of apoplexy. Several times before this he had been afflicted in a similar manner and expected to meet his death some day in some such fashion.

Dr. Simpson had been called in and found the deceased still warm but dead from either apoplexy or heart disease.

Other witnesses were examined and all bore out the theory embodied in the verdict that deceased met his death from natural causes.

Colonel Winfield Scott Parker was born in Kentucky 56 years ago. In 1891 he was marshal in the town of Fairhaven, Wash., where the writer first met him. He was exceedingly popular and had many friends. The friends obtained receipts for taxes as a temporary accommodation without paying them and of course did not settle up when the time came. The colonel was swamped and left for Buenos Ayres, South America. We mention this to show the calibre of the man for from his foreign home he earned and forwarded to Fairhaven \$12,000, and obtained a release in full for all indebtedness and from all claims against him. This was not because he wished to return for he stayed where he was until last summer when he visited London and came from London here. Upon his person at the time of his death the receipts were found in his pockets. Another document is from John Sherman, Secretary of State, to W. T. Buchanan, minister to the Argentine Republic, advising him that a full settlement had been made of the affairs of Fairhaven.

The colonel has just completed stocking a store at Grand Forks and believed himself in a fair way to do well. He anticipated death in some such way as actually occurred and when sleeping with friends always advised them of his probable sudden death and asked them to awaken him if they found him restless in the night. This was often done and it is believed his life was frequently saved by this awakening.

The deceased was a 32nd degree Mason, an Elk, a Knight of Pythias and belonged to several other societies.

The funeral will take place at Pioneer hall Sunday, Feb. 5th, 1899. Services will begin at 12:30 p. m. under auspices of A. F. & A. M. E. P. O. Elks, and K. of P. All friends are invited to attend.

IN THE TERRITORIAL COURT.

A Rapid Disposal of All Kinds of Cases by Judge Dugas.

The Complete Docket—Sessions Short but Quick Work the Order of the Day—Bondsmen Scored for Laxity.

Wednesday's session of the territorial court though not consuming more than an hour and a half time, was rendered interesting by the nature of several of the cases and the significant remarks passed by Judge Dugas in disposing of several of the actions.

M. M. Reeves, the gentleman who sought a short road to fortune by entering into a deal with H. M. Marlin, a government clerk, appeared and entered a plea of not guilty to the charge of attempted bribery preferred against him. He elected to be tried before a jury and the case was ordered docketed for the 15th.

The case against H. M. Henning, wherein defendant was charged with having unlawfully cut and removed a quantity of timber from the preserve of Slavin & Boyle, was next called. Attorney Tabor appearing for defendant. The evidence presented showed that Mr. Henning had acted in apparent good faith, with no intent of wrong doing, and the court ordered his discharge. It is inferred the action was of a retaliatory nature, Henning having lately preferred a criminal charge against the others, which was also dismissed. A civil action for the recovery of the value of the logs, estimated at between \$1,500 and \$1,700, is now pending.

Messrs. George G. Allen, Emil Weinheim, Robert Blei and George Brewitt, through their counsel, besought the court to relieve them of their obligations as bondsmen in cases where the defendants had failed of appearance, the plea in Mr. Blei's case being his present insolvency. Judge Dugas, while reducing the bonds by half in each case, took occasion to address some sharp language to the public over the heads of the lawyers. Many matters have long been conducted loosely hereabouts, he said, among them the custom of giving bonds. Hereafter he wanted people to realize that when they thus assumed an obligation of this kind to the Queen, they should feel its binding force, for he will hold them strictly to account, himself insisting on the prosecution as a member of the Council.

The civil action of Madard Emard vs. Wilfrid L'Heureux was dismissed by consent of the parties with the understanding that plaintiff is to be paid the sum of \$500 when the claim involved is sold.

In the case of Bell vs. Kleinschmidt, et al., judgment was reserved in order to learn if there is any truth in a report that one of the defendants is being kept away to prevent him testifying.

The action of G. D. McKay and Chas. Sinker vs. The Dawson City Electric Light and Power company was dismissed, the evidence tending to show that defendants stood in the light of innocent purchasers. Plaintiffs, it may be remembered, had a raft of logs moored in the eddy opposite Klondike City, and later on portions of it were found in defendants' wood yard.

At a previous session of the court the case of F. J. King vs. Louis Bono, et al. was heard. Judgment of \$200 for plaintiff was rendered against all the defendants and for \$500 against Louis Bono.

In the action of the Queen vs. Shuman, wherein defendant was charged with the wrongful conversion of money intrusted to him by Simon Kisick, an Indian, the defendant was discharged after some severe remarks on the part of the court.

The case of John Henning vs. Arthur Wilson, an action for the recovery of wages, was dismissed.

The cases remaining in the hands of the court, both civil and criminal, have been docketed in the following order:

Queen vs. Schwartz, Allen vs. O'Brien (The Nugget vs. The Tramroad), James vs. Sprague, Smith vs. Farrell, Bourke vs. Morrison, Pul vs. Morford, Iverson vs. Grottscher, James vs. Henning, Judge vs. Henning, McFarlane vs. Hennessy, Jones vs. Hamburger, Boyd vs. Case, Catto vs. Sheridan, Annance vs. Swartz, Coffey vs. Ladue, Burke vs. Bono, Cook vs. Baker, Boyle vs. Henning, Queen vs. Millard, Reeves, Williams vs. Ross, Anselmo vs. Campbell, Johnson vs. Stemfelt, Leon vs. Butler, Danker vs. Fowks and Stevenson, Lisle vs. Duggan, VanWart vs. Stewart, Brennan vs. Pawcett, Holden vs. Hanson.

Masonic Aid Association.

Klondike Free Masons have organized the Masonic Aid Association, with a membership of about 100, and meetings are being held at Fraternity hall on the second and fourth Saturdays of each month. The purpose of the association is to extend necessary aid and care to its sick and indigent members and this is done for a membership fee of \$5 and monthly dues of fifty cents. The officers of the association are as follows: President, W. T. Perkins; first vice president, George H. McPherron; second vice president, H. Langley; secretary, P. V. Goodloe; assistant secretary, George A. McPherron; treasurer, S. D. Grout.

A Good Trap for 50 Cents.

The Mine Exchange Map of the Klondike Gold Fields should be in the hands of every miner. For sale at the Nugget office, 50 cts.

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