

BOOK REVIEW

Recent Publication of the United States Bureau of Mines. Abstracts of Current Decisions on Mines & Mining. Reported from September to December, 1918, by J. W. Thompson. Bulletin No. 179.

This useful digest of legal findings on matters relating to mines and mining is the latest volume of a series of great value. The subject index, which is carefully compiled, arranges the contents in a manner that makes reference easy for the non-legal reader, and in addition there is a Table of Cases, which gives the information as to origin of the abstract for legal readers.

An interesting reference is contained in the Chapter on Eminent Domain in connection with the application of one operator to use the tunnel belonging to another operator. It is laid down that the power of the Legislature of Utah in making mining a public use is conceded, and the purpose of the statute should not be hindered by any narrow or technical objections. The importance of encouraging the mining industry of the States must be kept in view, and as this "was the object, intent and purpose of the Legislature in passing the Act, and its wisdom, policy and expediency were thereby determined, a reasonable, fair, just, broad and liberal view should be taken by the court in the interpretation of the Statute."

There is a tendency to break away from the old rigid rules on the subject of "public use," and to enlarge the definition of the term so as to make it synonymous with "public welfare," and the test of "public welfare" instead of the old doctrine of "public use" is being gradually extended with the promise of its becoming the prevailing doctrine in most jurisdictions.

The owner of a mine sought by appropriation proceedings to condemn a joint use of a mining tunnel, the use to be in connection with that of the owner of a tunnel, and where the tunnel was not used to its full capacity by the owner. Proof that the condemner owned a mine and that the cost of the construction of a separate tunnel would be too great to justify this, and if the condemner cannot reach his mineral deposits through the existing tunnel, he will be prevented from removing his mineral deposits. There is prima facie evidence that it is necessary for the condemner to have a joint use of the tunnel in order to develop and mine the ores in his mining claim.

The burden of proof that the use required is a "public use" was laid upon the condemner. As to compensation, it was held that some just method, based upon all the known facts, is all the law contemplates, and is all that can be required in such a case.

This series of decisions seems to afford an important set of precedents in the application of the doctrine of "Eminent Domain" to mining operations. The principle appears to be that minerals constitute a public property, or perhaps, a more correct expression would be that the development of mineral is necessary for the public welfare, and that any condition of ownership which prevents such development, is against public welfare, and is open to correction and remedy by the power inherent in the state as the representative of the people.

Samuel Underhill, superintendent of the Queen Mine, Sheep Creek, died at Spokane, Wash., recently. He had been employed on McCune property in the interior of British Columbia for about thirty years.

MINE EXPLOSION FROM STRIKING MATCH NOT HAZARD ARISING OUT OF EMPLOYMENT.

In the First Division of the Court of Session, at Edinburgh, judgment has been given in an appeal in an arbitration under the Workmen's Compensation Act, between the Woodilee Coal & Coke Company, Limited, Lenzie, and Mrs. A. Robertson, whose husband was a miner in the appellants' employment, and was injured by an explosion in the Meiklehill Colliery. He died as the result of his injuries. The explosion occurred on his striking a match to light his pipe, after finishing his piece, at the customary knock-off in the middle of the shift. The possession and use of matches in the pit were prohibited by the Coal Mines Act, 1911, and these prohibitions were known to Robertson. Sheriff-Substitute Kippen at Dumbarton found that the explosion was an accident arising out of and in the course of the employment, and in law that the appellants were liable to pay £300 of compensation to the widow.

The First Division reversed that finding, holding that the deceased added a new peril to his employment by striking a match against prohibitions. What he did was for his own purpose, and was innocent enough but did not arise out of his employment.

Special Correspondence

The Silver Bell Mine, situated on the south fork of Kaslo Creek, and the Silver Bear group of mineral claims, which adjoin each other, are to be consolidated. The Silver Bear group has recently been acquired by the owners of the Silver Bell mine and it is understood that the development of the two properties is to be proceeded with this season.

There is said to be a renewal of interest in mining along the Upper Kootenay Lake, which is evinced in development work on a number of properties which have been comparatively inactive. The Blue Bell mine at Riondel, the operation of which has been interfered with by the flooding of the mine workings, is being pumped dry and probably will be in a position to resume mining and milling operations at an early date. This, of course, is contingent on lead marketing conditions improving. In the meantime it is likely that shipments of carbonate will be resumed. The carbonate ore which is of a rather low grade, but the mining costs of which are not heavy, formed a considerable portion of the tonnage sent out from the Ainsworth mining division last year. With the slump in lead prices following the signing of the armistice these shipments were discontinued. The Curle Manganese properties, near Kaslo, is to be operated again this summer, a small shipment of this class of ore having been asked for by the Consolidated Mining and Smelting Company. The Cork Province Mill on the south fork of Kaslo Creek is running on a one-shift basis. The Index Mine is being developed by Spokane capital. A two-ton motor-truck was imported recently for use in connection with this property. This is the first motor truck used in the south Fork section.