

THE OTHER SIDE OF THE STORY.

Dr. Bourke Says Birt Was "Shamming," and Had no Broken Leg.

When Doctors Disagree Who Shall Decide?—An Old Trick in the Army—Birt to Prove One Leg Shorter Than the Other.

Trial of the \$10,000 damage suit of Birt vs. Howard, which grew out of the falling of the Klondike bridge last fall, through which the plaintiff received severe injuries, was resumed in the Territorial court this week, with the witnesses for the defense on the stand. The most important of these was Dr. Isidore McWm. Bourke, whose testimony conflicted squarely with that of the other physicians called, and who felt no embarrassment when he said unhesitatingly that his learned "friends were wrong in their diagnosis of Birt's injuries. In brief, Dr. Bourke testified that he was called to examine Birt immediately after the accident, and then made a superficial examination. In the evening and for several days thereafter he made regular calls and effected a careful, minute and consecutive examination, both by measurements and manipulations of the parts, as a result of which he found no fracture, no bruises or abrasions, no swelling, no inflammation, and no signs of injury. Birt had claimed all the time that he was in great pain, and asked for a sedative to promote sleep; so the doctor several times administered morphia, the last time in a very large dose. Each time, however, he found that the usual effects of morphia—contraction of the pupils of the eyes—was not present, and he knew that Birt was not taking the morphia. From this and other evidence the doctor became convinced that Birt was shamming and corroborative evidence following from day to day, he had never changed his belief. Asked how he harmonized his theory with the fact that Birt's injured limb is shorter than the other, the doctor first denied that the leg is shorter and then said that the British sailors had an old-trick of simulating that condition by shifting the pelvis. The doctor illustrating the trick for the benefit of the court. Testifying further, he said Birt's temperature was always normal, that there was no swelling, as would have been the case did a fracture exist, and that Birt could draw the limb forward while on his hands and knees, which would have been impossible in case of a fracture. The doctor also advanced the belief that the fall experienced by Birt was not sufficiently violent to result in a fracture of the hip, as the fall did not exceed large feet and fractures of the kind claimed were so rare in persons under the age of 65 years that only violence sufficient to have external signs of injury could produce it, as a rule. He had early made up his mind that Birt was only acting a part preparatory to bringing an action for damages against Howard and to inform the latter.

Dr. Norquay also testified that Birt had refused to let himself and Dr. Bourke examine him at the hospital. Mr. Howard, in his own defense, told of the care he had devoted to Birt—renting a cabin, hiring a nurse and doctors, keeping him at the hospital, etc., the expense of which, up to date, exceeds \$2,900. He was cross-examined closely about the construction of his bridge and the privileges which he had been accorded by Mr. Fawcett, the purpose being to show that the permit was for a passenger bridge only. On this point, witness could throw no light, as the original grant was lost and its terms were not remembered.

The Original Ox. A curiosity dug from the earth at a depth of 21 feet at 50a Sulphur was brought to town Wednesday afternoon and is now at the warehouse of the N. A. T. & Co. It consists of a pair of large horns, attached to a fraction of skull, and is undoubtedly the mortal remains of a species of quadruped belonging to prehistoric days; in fact, Mr. D. G. Prazier, on whose claim it was unearthed, says it belongs to what was undoubtedly the original ox. The animal to which the horns belonged, judging from the size, must have weighed about 2,500 to 3,000 pounds.

The Hockey Match. The game played last Saturday between the Dawson Hockey club and the Ottawa Dawson club was hotly contested, and very interesting, resulting in a victory for the Dawson club by a score of 5 to 2. The players for the victorious club were: Forwards, Messrs. Hardisky, Stow and Dr. Edwards; cover point, Capt. Stevenson; point, R. Fortune and Tomlinson at the goal. The defeated club was represented by Messrs. G. O. Owens, R. H. Baker and Capt. H. S. Tobin for forwards; cover point, J. Hinton; point, C. A. Cameron and Wm. Noryal at the goal. Captain Bennett refereed the game with Dr. Richardson as official time-keeper, and J. McMartin and Private McIvor as goal umpires.

Answers to Correspondents. BOULDER, No. 3, March 7, 1899. Kindly answer, either through your Enquiry department or by personal letter the following: Mr. Jones owns a creek claim on which he gave several leases last winter. Each lease was signed by papers, agreeing to surrender all improvements to Mr. Jones at the expiration of the term of their leases. Seven cabins were built by these laymen; were vacated by them this spring and remained vacant all summer. This fall when Mr. Jones desired the use of these cabins for new laymen he found them occupied. The occupants were ordered to vacate as a reason that the cabins were not built by Mr. Jones but by the laymen who obtained the title to the cabins from the government by licenses, etc., etc. That when the laymen vacated the fee to the cabins went back to the

government because Mr. Jones had no right to more timber than is in the cabin he occupies. Now, what are Mr. Jones' rights in the premises? Yours very respectfully, R. L. ABE.

Ans. The cabins are plainly the property of Jones, under the conditions you give. The agreement that all improvements should revert to Jones as one of the considerations of the "lay" is the prime factor in deciding this question, and the agreement will be found as binding and as legal as a bill of sale.

The next query is under different conditions. Ques. In measuring off my claim this winter which is the first time I have seen it in six months, I find it occupied by three cabins and the men living therein refuse to move off, contending that I have no surface rights and they can live on my ground in spite of me. Can I move them off?

Ans. There have been no test cases of this sort as yet brought to the notice of our courts; but it is generally conceded and understood that the cabin occupants are in the right, provided they in no way interfere with your working of the claim. You can sink a shaft or shafts where each or all of the cabins stand and can secure their removal for that purpose. If the logs in the cabins have been cut from your claim since it was recorded, you can refuse to allow their removal from the ground.

Ques. A deserted claim became vacant last November and I relocated it and applied for record. In the middle of February the grant was made me from the gold commissioner's office, yet I find my certificate reads that I have got to complete my reclamation work by the middle of next November and secure a renewal by that date, at the very farthest. Was this a mistake of the recording clerk or have I really only nine months in which to re-locate?

Ans. It is not a mistake but appears to be the outgrowth of new conditions which have just arisen. When a grant was made the day of application there was no injustice in dating the grant from the day of staking. The anomalous condition you describe of grant back over three months prior to its issuance is one of the results of the ruling that relocations are not eligible until the expiration of a full year from the date of staking. The gold commissioner has agreed to make a ruling on this matter in the near future, and it will be announced in these columns in due order.

Ques. Your definition of the boundary of a hill and bench claim, in a recent issue, does not fit my case. You say "as long as the general trend of the ground is towards the creek or as long as the water is shedded in that direction it is still hill claim." In my case the water flows neither to the creek to which the claim is tied nor yet away from it, but parallel to it and empties into a side gully when it runs at all. Can anyone come and stake that bench off of my claim?

Ans. No. As long as the bench has not positively turned over in the opposite direction and it is within the thousand foot limit, it goes with the hill claim.

Ques. I think, Mr. Editor, you must be mistaken. It is impossible that Mr. Fawcett was allowed the unrestricted privilege of roaming the gold commissioner's office and taking from it whatever papers and records he may have desired.

Ans. It may appear strange and unbelievable to you, but nevertheless Mr. Fawcett slept at night in a back room of the recording office up to the time of his departure and roamed around at night and handled the records at his own sweet will, long after his every connection with the office had been severed by his government. With Mr. Ogilvie's sanction and approval and against the protests of citizens, Mr. Fawcett was allowed to overhaul the records and abstract such of them as was dictated by his own sweet will, and this without the slightest attempt at supervision and also before the conclusion of the investigation.

CREEK ITEMS.

The laymen on No. 4b Bonanza are exhibiting a handsome nugget found there not long since. Its gross weight—quartz and metal—is 38 ounces, while the gold alone weighs 24 5/16 ounces. The Holzrad Talbot cabin on 14 above on Sulphur was totally destroyed by fire on Friday morning. Both men were in the woods at the time and the loss is entire and comprised the grub supply, clothes and some very valuable papers.

Jas. Ellwell has demonstrated that steam thawing is the only economical method of working the mineral grounds of the Yukon. By adding a few single attachments to his steam engine he has made, and is operating, one of the most successful steam thawing plants in the districts.

Drifting is gradually being discontinued on Eldorado. No. 23 having closed on 17 and a portion of 16 the men have quit operations. Still a great deal of work is being done on Nos. 4 and 13, where large dumps are being taken out. Mr. Schuler on No. 4, expects to continue working until the middle of April, as does Mr. Wanger on 13.

Mr. Jas. L. Ellwell, No. 6, Eldorado, had a narrow escape on Friday last. He was inspecting one of the shafts on his claim when a piece of bedrock fell from a bucket and struck him on the head, cutting a gash about three inches long. Surgical attention was immediately summoned and he was able to be around again after a day's rest.

Mrs. W. C. Lowden of 19A Bonanza, entertained a few friends on Saturday evening in honor of Mrs. A. S. Carey who leaves for the coast in a few days. Cards and other forms of amusement were indulged in until a late hour. A dainty luncheon was served. There were present Mr. and Mrs. Carey, Dr. and Mrs. Hendrick, Miss Olive Carey, Mr. and Mrs. Lowden, Dr. T. G. Albin and I. N. Davidson.

"Erin Go Braugh."

Dawson's volunteer fire department gave a parade on Thursday afternoon in honor of St. Patrick's day and in the interests of their bill at Pioneer hall, and it proved so creditable in all respects as to arouse a sense of pride in the breasts of the hundreds of people who witnessed its passage through the streets. Indeed, it may be safely assumed that in any respect, except that of size, it was the peer of the best given anywhere on the continent in honor of Erin's patron saint.

The parade was headed by a platoon of ten mounted police, commanded by Sergeant-Major Tucker, and these by a band of 16 pieces, all volunteers, led by Creese and Husson. Next

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