

is not occasioned by any lack of coal but merely by insufficient openings to get enough out. It is a difficulty remedying itself every day not merely by the further opening of the mines, but also by the exploitation of new coal fields. There is no lack of coal in British Columbia. In addition to the vast measures in the Crow's Nest field there are extensive deposits immediately west of the Gold Range and also in the Nicola Valley. These deposits lie cheek by jowl with smelting ores of great variety and riches. The ore provides a use for the coal, the coal renders valuable the ore. Wherever these conditions have prevailed great industrial communities have been developed. British Columbia is no exception to the rule.

On account of the habit of so many English companies of holding their annual meetings at the close of the year our columns this month are pretty heavily burdened with reports of directors and such like matter. These, however, if not particularly entertaining to read, form a valuable reference in the history and standing of the mines to which they refer. For that reason so much space in our February number is directed to them.

#### AN IMPORTANT JUDGMENT.

WE are indebted to the Nelson *Tribune* for the following report of an important judgment in a mining case:

The judgment of the Supreme Court of Canada lately delivered by Mr. Justice Gwynne for the full bench in the now famous appeal case of Coplen v. Callaghan respecting mineral claims in the Slo-can district arrived from Ottawa yesterday morning. The facts of the case are briefly as follows: The Cube Lode mineral claim was located as running in a northerly direction, and so described on the post of location as well as on the records. The respondent believing the location to have been made as described on the records, to wit: in a northerly direction staked the ground running southerly from the appellant's posts. It so happened, however, that the appellant staked his claim in a southerly direction, but by mistake described it as staked in a northerly direction. Both parties were therefore staked over the same ground.

The appellant sought to save himself by claiming the protection of section 28 of the Mineral Act. The section has been the cause of more litigation than the whole remaining portion of the Mineral Act. It reads as follows: "Upon any dispute as to the title to any mineral claim, no irregularity happening previous to the date of the record of the last certificate of work, shall affect the title thereto, and it shall be assumed that up to that date the title to such claim was perfect, except upon suit by the Attorney-General based upon fraud."

Mr. Justice Gwynne's judgment reads as follows:

"That the description of the Cube Lode claim as recorded by the appellant does not precisely conform to the provisions of the statute of British Columbia in force in that behalf if not disputed. The evidence, indeed, leaves no doubt in the matter, and it is in fact admitted. The only question therefore, which, as it appears to me, is at all necessary to be decided in the present appeal is whether the deviation from the prescribed was calculated to mislead and did in fact mislead William Callaghan, now deceased, when subsequently recording the Cody and Joker

fraction claims located by him on behalf of persons whose title was duly transferred to him in the lifetime of deceased of whose estate the respondent is administrator. The Cody and Joker fraction claims as recorded cover portions of the Cube Lode claim as claimed now by the appellant, but do not touch the Cube Lode claim according to the description as recorded. The whole contention of the appellant is that all objection to the defect in his recorded description of the Cube Lode is removed by his certificates of work done by force of section 28 of chapter 135 Revised Statutes of British Columbia; but whatever effect that contention might be entitled to in an action between the appellant and the Provincial Government it has no application here where the contest is solely between the appellant and the respondent in which the sole question is whether the owner of the Cody and Joker fractions claims as recorded have not by reason of the error in the Cube Lode claim as recorded acquired superior right to the claim of the appellant to so much of the land covered by the records of the Cody and Joker claims as the appellant asserts claim to as part of the Cube Lode claim as now claimed by him, although such land is not within the description of the Cube Lode claim as recorded.

"That the error in the description of the Cube Lode claim as recorded was calculated to mislead, and that in point of fact the Cody and Joker fractions claims were located and recorded as they were by reason of such misleading error, have been found as facts by the learned judge who tried the case, and such his finding is well supported by the evidence, apart altogether from any question of fraud in any person whomsoever.

"The appeal, therefore, must be dismissed with costs."

#### THE NORTHPORT SMELTER.

The London financial press is worrying itself over the Northport smelter still. We will place the position of affairs as shortly and clearly as we can. We regret that, not being in the habit of writing for children, we cannot put it in words of one syllable.

1. The American Le Roi company sold to the B. A. C. all it owned, viz., the Le Roi mine, three-fourths interest in the Northport Smelter company, and a contract between the Mining Co. and the Smelting Co. for an \$8 freight and treatment rate.

2. The B. A. C. turned over these three assets to the present Le Roi company.

3. The smelter was getting \$8 for doing what cost \$3. Consequently Messrs. Breen and Bellinger were netting \$1.25 on every ton of Le Roi ore mined. These gentlemen owned the odd quarter of the smelter.

4. As the profit on the Le Roi ore was not over \$5 a ton these gentlemen were receiving 25 per cent. of the profits of the mine.

5. It was necessary to buy them out.

6. They were bought out about a year or so ago.

7. The contract above mentioned was valid as long as the quarter in the smelter belonged to Messrs. Breen & Bellinger.

8. Therefore the Le Roi company escaped provincial ore taxation which exempts freight and treatment charges.

9. The Le Roi company endeavored to maintain the validity of this contract before a provincial commission in order to escape taxation after Messrs. Breen & Bellinger were bought out.

10. The commission said the plea was nonsense.

11. The Le Roi company now pays taxes.