BANK OF COMMERCE WINS.

Judgment in Case of the Bank vs. Syndicat Lyonnaise du Klondike is Against the Company—Latter Recovers Judgment Against Barrett for the Sum of $40,000.

One of the longest and most complicated judgments ever delivered in the territorial court of the Yukon is that which was handed down this morning by Mr. Justice Craig in the case of the Bank of Commerce vs the Syndicat Lyonnaise. The document covers 60 closely typewritten pages and goes into the subject most exhaustively, dissecting the evidence piecemeal and quoting authorities extensively in support of certain decisions made. The work of compiling the judgment has been tremendous and reflects great credit upon his lordship's keen powers of perception and his ability to sift out and properly weigh the most minute detail embraced in the testimony. Not only was the evidence very voluminous, but there were numerous plans of workings to be kept track of, many exhibits and the counsel on both sides neglected the precaution of completing the examination of one question before proceeding with the next, but instead would wander about, returning now and again to a matter that perhaps was thought to have been exhausted a half hour before, all of which made the digesting of the evidence and its thorough assimilation a very difficult matter. The extreme length of the decision makes its reproduction almost an impossibility and only the most salient features are given herewith. The nature of the action is set out as follows:

"The plaintiffs sue the defendant syndicat for payment of a promissory note for $92,500 and also on the covenants contained in two mortgages covering mining property and chattels made on the same day and for the same debt, the note and mortgages being made by the defendants to their co-defendant, Joseph Barrett, and by Joseph Barrett assigned to the plaintiffs. Various and very intricate defenses are raised. First, the defendants deny the making of the note and the mortgages, deny that the plaintiffs are holders of the same or that any consideration was given for the same, and set out various circumstances in proof of their defense which I will refer to in the history of the case as I consider the facts as well as the technical defense raised on the note and mortgages. A counterclaim is set up based upon fraud in which the allegation is made that in the negotiations leading up to the sale, the defendant Barrett in fraud and by misrepresentation and with intent to deceive the plaintiffs made representations as to the value of the ground, its nature and the extent of the operations which had previously been carried on upon the properties in question. The sale covered the following properties, namely: Creek claim No. 32 below upper discovery on Dominion creek; creek claim No. 12 above lower discovery on Dominion creek; hillside claim opposite the upper half of the left limit of 12 above lower discovery, Dominion creek; creek claim No. 9 above lower discovery on Dominion creek, the lower halves of creek claim No. 2 on Caribou creek, an undivided interest in creek claim No. 1 on Caribou creek; hillside claim opposite the upper half, left limit, No. 28 Eldorado creek; and it also appeared in evidence, though not set out in the pleadings, that there was included in the sale some interest in a creek known as Barlow creek. The contest, however, centered aroud four of these claims, namely: Claim 32, Dominion, claim 12, Dominion, hillside 12, Dominion, and creek claim No. 9, Dominion."

Then follows by his lordship an extensive account of the investigations made by the representatives of the defendant company which led up to the purchase of the property at a cost of $167,000, about the formation of the company in France by Messrs. Paillard and Tarut after a previous visit made to the Klondike, their first trip to the claims in April then in June, and the events that transpired which eventually resulted in a sale being made. It appears that the representatives of the company relied almost wholly upon the word of Mr. Barrett and made themselves only a cursory examination of the ground. In fact, a complete examination could not have been made at the time, in the summer, many of the shafts and drifts, particularly the old workings, being full of water.

The main claim of the company is that Barrett deceived them not only as to the richness of the claim, but also as to the extent of the portion worked out. Exhibited at the trial were complete plans made of each claim showing the extent of the drifts and the position of each shaft. These his lordship went into very carefully, making lengthy comments upon discrepancies in the evidence and showing why he believed such and such was true. Concerning the allegations made by the company that prospecting in certain portions of the claims showed poor results his lordship continues:

"I need not go into the evidence in detail to make this judgment more lengthy than it should be, but there is no evidence to rebut the positive evidence that in all these holes the pay was extremely poor, small pans being got and at other times not even colors. It was contended that the prospecting done, as evidenced by these holes, is not sufficient to base any opinion on as to the value of the unworked ground, that Dominion creek and this claim is spotty, and that drifts should have been run between these holes. While it is but barely possible that spots may be found containing good pay between these holes, yet I am satisfied that the prospecting there done is sufficient to show that the placer gold in that part is not even and extensive and of the same grade and quantity as was taken out of the worked drifts. Mr. Wilkins, a very intelligent witness of large experience, says what he found he would not call pay at all. 'I would not want that ground, a prudent miner would not work it.'

His lordship considers that for future operations No. 32 is worthless as a mining proposition.

After devoting 22 pages to the facts of the case, the law governing the same is taken up and dealt with it equally as exhaustive manner.

Much seemed to depend upon the translation of the word "nantissement," and the right of Mr. Paillard to execute a note and mortgage in the name of his company. Mr. Justice Dugas was placed in the box and gave expert evidence as to certain peculiarities of the French law. M. Henri Plouchat, a French lawyer, likewise gave evidence, though it was directly contradictory to that of Mr. Justice Dugas.

His lordship concludes by finding judgment for the defendant syndicat against Barrett in the sum of $40,500, and there will be also judgment for the plaintiff, the Bank of Commerce, against the syndicat for the amount sued for by them with costs.

FOR OLD TIMES SAKE

Capias Machine Gets in Its Deadly Work on Saturday.

Saturday afternoon the machine in charge of Sheriff Eilbeck that is used in grinding out capiases, which has been almost out of commission since navigation closed, was again hauled out of the corner and set in motion. William Thornburn dropped the requisite fee in the slot and out popped the regulation personal detainer. On the top line was written the name of Marie Newman, affectionately known by her intimates as "Sweet Marie," and in the document it was set forth that the said Marie, she of the saccharine pseudonym, did owe to the said William Thornburn the sum of $225 in gold coin of his majesty's realm. And it was further averred that the accused was about to make the big mush to the Tanana and the suing out of the capias was to prevent the possible loss of the golden ducats to the aforesaid Sir William.

When the writ was served it is alleged that Marie went up in the air and swore by the great horned spoon that she would never pay it. A promenade to the bastile was taken and after a three hours sojourn therein she put up a certified check for $225 as cash bail for her appearance.

Marie has decided to forego the trip to the new Eldorado for the present and will remain and contest the capias.

MATSON-DOYLE

Plan of the Claims Thrown Open Ready for Inspection.

Director of Surveys Chattaway has made a map of the eighty claims on the Matson and Doyle concession which will be thrown open to relocation on the 25th of this month, and several would-be stakers were carefully going over this map in Mr. Chattaway's office this morning.

This map has been prepared from the records but as the surveys of these claims have never been made the relative positions of the claims as they appear on this map are merely approximate, and therefore a good deal is left to the individual judgment of the relocator in the matter of staking. There will no doubt be a rush for the claims, and those who take part in it cannot be too careful in making as sure as possible beforehand of the ground they place their stakes on.

See Mrs. P. Mullen as "Ruth" in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

See the beautiful dances in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

REILY FUNERAL.

Sorrowing Mother Will Take the Body Home for Burial.

The funeral of Joseph Reily is to take place at ten tomorrow morning from Greene's undertaking parlors. The services will be held at St. Mary's church, Rev. Father Buhoz officiating, and will be attended by the Young Men's Institute, of which the deceased was a founder, in a body.

There will be no interment. The remains will be held here until the opening of navigation and then taken to the home of the deceased at Anacortes for burial. In all probability Mrs. Reily, his mother, will remain here until that time. It was a great grief to her to arrive here a day too late to see her son alive, but she has borne up well and though still in the charge of the sisters will be able to take her part in the solemnities of tomorrow.

Mr. Reily made a will and appointed his friends Charles M. Farrar and A. Ritzwaller as his administrators. They have found his affairs in good order and will have a sum for the widow and three children.

SCOFIELD CONVICTED

Appeal to the Higher Court Is Futile.

Judgment of the Police Magistrate Is Sustained and the Accused Must Serve One Month.

Today might have been called a day of judgments in the department of Mr. Justice Craig. Not only did his lordship render his decision in the Bank-Syndicat Lyonnaise case, but he also filed and read his decision in the appeal case of Herbert Scolfield, brought up from the lower court and appealed from the judgment of the police magistrate.

The accused was convicted before the police magistrate under section 207 of the code for being a loose, idle or disorderly person or vagrant, having no peaceable profession or calling to maintain himself by, for the most part supporting himself by gaming, the sentence of the court being, upon the conviction being secured, that the defendant should serve a month at hard labor. The appeal was practically a new trial and no account was taken of the evidence adduced at the lower court. It was bitterly contested by both sides, Mr. Tattullo assisted by Sergeant Smith appearing for the crown and Mr. Hagel, K. C., for the accused. The police regarded it as somewhat of a test case; if they secured a conviction gambling would cease forever, but if they failed there would be but little use in making any further arrests. Now that they have been successful they feel highly gratified and will vigorously prosecute any further offenders. Mr. Justice Craig sustained the judgment of the police magistrate and Schofield will be compelled to serve his moth at hard labor. The concluding portion of his lordship's decision is as follows:—

"I believe from the evidence in this case that this natty has no peaceable calling. It was suggested that he was a cabinet maker and has been working at his business since his conviction, but there was no evidence of this, and even if it were proved to me that he was a cabinet maker or that he had skill in that trade I do not think he would still be saved from the operation of the statute as a man may have a calling and abandon it and become a criminal under this act. I think that having a peaceable occupation under the act means following a peaceable calling, not simply being skilled in it and abandoning it for the purpose of carrying out another line of business. I think the man is a confirmed gambler, a person of the gambling class. He was certainly employed in this place; he assumed to pay the bills incurred; in one case he acted as the head of the table, as a dealer having charge of the cards, the chips and the rake-off, this extending over a very long period, and if he is not such a one as the act aims at, I cannot conceive of any one who could be, and if the crown cannot succeed on such evidence as this but must prove what can only be within the knowledge of the accused alone, that is, the possibility of his having a private purse, then the act is useless. I do not think I am compelled to go that far, but believe that I may presume conclusively from all the facts given in evidence that this man derived his main support from gaming, whether the result of betting by himself or as being in charge of those who conducted these gambling houses for their profit. I, therefore, sustain the conviction, and dismiss the appeal with costs."

See Mr. R. L. Cowan as "Frederic" in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

Job Printing at Nugget office.

FATHER CORBEIL

Comes From Whitehorse to Spend Vacation on Dominion.

There was a very notable passenger who came in by the White Pass stage yesterday evening, in the person of Rev. Father Corbeil, of Whitehorse. For a long time the priests of this diocese have not been able to obtain vacations, but at length Father Corbeil has obtained one of two weeks only, and he will spend them on Dominion. He said when he got to the Forks, "Now I am once more among my people, or shall be soon," and his eyes were moist with gentle emotion. He came in here in '98, and was an aid to Father Judge, of honored memory. He hopes to spend the whole of his vacation among "his people" on Lower Dominion, who speak his language.

MISSING.—If there is any one who knows the whereabouts of P. Chris Peterson please notify Mrs. S. Peterson, 12 Schuyler avenue, Kankakee, Illinois, U.S.A.

Job Printing at Nugget office.

OUR QUARTZ COMPARED

With the Values of South African Reefs

Less Than Half Our Average Values Will Create a Big Boom There.

Quartz Recorder Petre has received some information as to the quartz values sufficient to induce a lively stampede in South Africa, and in a leisure moment this morning made some comparison of these values with those of the quartz discoveries in the vicinity of Dawson, much to the advantage of the latter.

The particular quartz of South Africa referred to is the discovery of a reef on the Baal river, in regard to which the well known London quartz expert writes for publication:

"This reef averages six feet in width and runs several miles. I estimate its average value in gold at seven pennyweights of fine gold to the ton." (This would be about 28s. or about $7 to the ton, out of which has to be taken the cost of mining andmilling, interest on outlay, etc.)

Mr. Petre, speaking from his experience, says that the declaration of such values by such an authority will be sufficient to start a boom in the neighborhood of the discovery; that any amount of capital will be ready to be invested, and that by this time there is probably a lively time there. And then he compares these values with those he officially knows to be carried in the discoveries made in this district. He does not feel that he should state these values, but he can say that the average values would certainly be double those which are deemed sufficient to create a stampede in South Africa.

The only disadvantage of this country as compared with South Africa in working quartz mines is in the price of labor. But in South Africa they have no timber except what is imported at enormous expense, and as to the cost of transportation they would probably be about the same. At any rate the average of double the value to be received from the ore handled would more than offset any of the disadvantages of mining in this country as compared to the conditions in South Africa, and he is therefore surprised that quartz mining in this country is so slow in its development.

PERSONAL POINTERS.

Miss Baxter, who arrived on the White Pass stage on Saturday evening, came with the mission to regenerate a wealthy miner on Hunker, to accomplish which she will change her name.

Father Corbeil, of Whitehorse, found friends to shake hands with him as soon as he stepped from the stage yesterday. There were so many of them claiming remembrance that his eyes were moist.

Charley Thebo leaves Dawson tomorrow and will be greatly missed in social circles. He will not return until navigation opens when he promises to bring in the latest fashions in dress and in dressed beef.

Louis Spitz was charmed with his vacation in California and is determined to try an orange grove here during the summer. If it does not work he will buy one in lower California next fall. He says that in shovelling hash the pay pans in Dawson are getting too small.

See Mrs. W. S. Herbert as "Edith" in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

England buys from the United States in a year more than $100,000,000 worth of wheat and flour, meats to the same amount and 69,000,000 bushels of corn.

CITY HAS A CLEAN UP

All the Big Dumps Being Operated Upon

Sidewalks Being Worked to Bedrock and Many Pick and Shovel Hands Employed

Dawson city is to have a cleanup. Work began on it today and nearly every man who wanted a job got one. In a day or two there will be no dumps in sight; all will have been cleaned up. Those which have not been operated upon will be thrown into the hands of the city, and the city will not only charge the owners of the dump with the expense of shoveling in, but will haul them up in the police court and force them to contribute to the city expenses. It is hoped that in this way the city will begin tomorrow morning to make a good spring cleanup, as its finances are at present in not the best kind of shape.

The authorities waited a couple of days to see what was the result of the paragraph published in the Nugget calling attention to the ordinance that those who did not clear the snow from their sidewalks would be summarily dealt with. Quite a number took the hint. Quite a number took something else. The result was that early this morning the police notified everybody that the snow must be cleared away within the next twenty-four hours or a summons to explain why and to pay the necessary fines would follow. That was how it happened that everyone was shovelling off his sidewalk down to the boards this morning, and everybody else was employing somebody to do it for him and the whole unemployed labor in the city was for once at work.

Another good regulation which the police enforced was that the snow was not to be piled at the edge of the sidewalk, and that the piles already there should be shovelled into the middle of the street. This is an excellent idea as it makes the street so much better for freighting.

This afternoon there seemed to be few who had not complied with the ordinance and therefore there will be few probably who will be called upon to contribute to the exchequer of the city in the police court tomorrow morning.

See the opera "The Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

Job Printing at Nugget office.

100 Suits

Former Price $15.00, $20.00, $25.00

NOW $10.00.

..SARGENT & PINSKA..

SECOND AVE. Phone: Store 82. Warehouse 73-3.

Hear the magnificent chorus of fifty voices in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday, Friday and Saturday, Feb. 18—21.

Will care for one or two good dogs for their use during the balance of the winter. Apply Nugget office.

See Mr. C. W. MacPherson as "Major-General Stanley" in the opera "Pirates of Penzance" at the Auditorium on Wednesday, Thursday and Saturday, Feb. 18—21.

Job Printing at Nugget office.

If you are going to have a

SUIT OR PAIR OF PANTS

This Spring see BREWITT, The Tailor. Don't send outside. We can give you the Best, no Waiting, No Fitting Over and no more expense. See our New Goods

GEO. BREWITT,

THE TAILOR.

Second Avenue.

Job Printing at Nugget office.

Auditorium—"A Black Sheep."

PROFESSIONAL CARDS

LAWYERS

PATTULLO & RIDLEY — Advocates, Notaries, Conveyancers, etc. Office: Rooms 7 and 8 A. C. Office Bldg.

Pacific Coast Steamship Co.

Affords a Complete Coastwise Service, Covering

Alaska, Washington California, Oregon and Mexico.

Our boats are manned by the most skillful navigators.

Exceptional Service the Rule

All Steamers Carry Both Freight and Passengers

N. C. Co. | TEMPERATURE { 7 a. m. February 16, 1903,—5 Above; 7 a. m. February 16, 1902,—20 Below; 7 a. m. February 16, 1901,—46 Below

SPECIAL CUT IN

WOOL DRESS GOODS

REDUCED TO $1.00 YARD

FORMER PRICE $2.50

20 Patterns, 48 to 54 Inch to Select From. All good, desirable colors, suitable for spring and summer wear.

Northern Commercial Company

Fresh Morgan Oysters

2-LB. TINS

Are now selling cheaper than ever before in the history of Dawson. Ask your dealer for them. Every can sold by our retailers guaranteed.

Pacific Cold Storage Co.

Telephone 63

Read the Daily Klondike Nugget

Dawson's Leading and Most Influential Newspaper. The Nugget has the BEST Local News Facilities, Telegraphic Service and Mining Reviews, and is ALWAYS RELIABLE.

The Family Paper of the Yukon

Delivered to Any House in the City for

$2.00 Per Month.

On and After February 1, 1903: