

also acted as book-keeper for her in a banking business carried on in her name at the same time, but it did not appear that he had any fixed salary or what was the arrangement, if any, between him and defendant.

Held, that such participation by the husband would not, in the case of an outsider contracting with the wife, absolutely prevent the finding that the business was carried on by the wife separately from her husband, and that on the evidence such finding was the proper one in this case. If, however, the defendant, on the same state of facts were claiming the profits or proceeds of the farming operations as against her husband's creditors, it would be impossible to hold it sufficiently proved that the business was bona fide intended to be that of the wife alone. It depends on the circumstances of each particular case what is the degree or nature of the participation by the husband which prevents the finding of a separate business.

Merchants' Bank v. Carley, 8 M.R. 258, and *Goggin v. Kidd*, 10 M.R. 448, distinguished. Verdict for plaintiff with costs.

Bonnar for plaintiff. *Phippen* and *Dubuc* for defendant.

Province of British Columbia.

SUPREME COURT.

McColl, J.]

CALLANA v. GEORGE.

[April 19.

Mining location—Validity of—Non-compliance with statutory requirements—Interpretation of statute.

This action was for the possession of three claims located by the plaintiffs in August, 1896. In place of putting up posts, the plaintiffs built monuments of stones and fastened the necessary notices on them. It was admitted that it would have been possible to obtain posts, as there was timber about a mile distant, and the same could have been procured and put up in one day. The Mineral Act makes no provision for stone monuments in place of posts, but the plaintiffs relied on the proviso which declares that a failure to comply with any of the requirements as to location shall not be deemed to invalidate a location if it shall appear that the locator has actually discovered mineral in place on said location, and that there has been on his part a bona fide attempt to comply with the provisions of the Act, and that the non-observance of the formalities was not of a character calculated to mislead other persons desiring to locate claims in the vicinity.

Held, that there was not such a compliance with the statute as would entitle plaintiffs to the protection of the above proviso.

McPhillips, Q.C., *Wilson*, Q.C., and *Plunkett* for plaintiffs. *Davis*, Q.C. *Elliott* and *Duff* for defendants.

[We should like to see this case go to appeal.—ED. C.L.J.]