

A DECISION FROM OTTAWA

Rendered in the Case of Kelly Vs. McGregor et Al.

The Department of the Interior Has Reversed Gold Commissioner Senkler.

Monday afternoon, a telegram was received in this city to the effect that the department of the interior at Ottawa had decided in favor of the defendants in the case of Mrs. E. L. Kelly, plaintiff, vs. Frank McGregor and D. A. Boehme, defendants. The action involved the title to the upper half of creek claim No. 2, on Magnet gulch, which property is exceedingly valuable. Originally, the suit was instituted in the gold commissioner's court at Dawson; this tribunal adjudged in favor of the plaintiff. The defendants appealed, and the recent decision of the higher authorities sustains the contention of the defendants and reverses the judgment of Commissioner Senkler.

A grant for all of claim No. 2 on Magnet gulch was issued to defendant, Frank McGregor, on March 16, 1898, upon a sworn application in which he alleged that he had staked the property on March 12th of the same year. Soon after obtaining the grant McGregor transferred a third interest in the ground to defendant, Boehme, and also a third interest to Charles F. Stone, who subsequently disposed of his interest to Messrs. Noah Davey and Fred Schall, in consideration of \$100. Until June, 1899, the property was worked by McGregor, Boehme, Davey and Schall. The output last spring amounted to about \$70,000.

In June of last year, Mrs. E. L. Kelly, the plaintiff, who is cashier in the N. A. T. & T. Co., relocated the upper half of said claim No. 2; she applied for a grant, and protested the right of the defendants to the property for the reason that McGregor had never actually staked the ground.

The principal witness for the plaintiff was Charles F. Stone. He testified that in March, 1898, he had informed McGregor of the Magnet gulch claim; that on March 11th, 1898, McGregor and the witness arranged that the former should stake the property and record it, for the reason that witness had used his right in the Klondike district; that McGregor agreed to convey a third interest in the ground to witness; that on March 12th, 1898, McGregor and witness left Dawson and proceeded as far as No. 25 below on Bonanza, at which place witness was working a lay; that after eating dinner at No. 25 below, McGregor asserted that he was too tired to go further, and he directed that the claim be staked in his name by the witness; that the latter continued the trip, and staked the ground in McGregor's name; that Walter Stanford and James Bridger accompanied witness from No. 25 below on Bonanza to Magnet gulch, and that Stanford was present when McGregor's name was written on the stakes; that after locating the property, Stanford and the witness returned to No. 25 below, where they found McGregor, who remained there till the following day; that on March 13th, McGregor returned to Dawson, and that the claim was recorded on March 16th; that soon afterwards, the witness received his third interest in the property, and that subsequently he sold it to Messrs. Davey and Schall.

Stanford and Bridger corroborated to a considerable extent the testimony of Stone; and Edward Dünckley and Alfred Hicks swore that they were present in the cabin on No. 25 below on Bonanza when McGregor and Stone arrived, and that McGregor remained there till Stone returned from the trip to Magnet gulch. However, there were several contradictions in the evidence of witnesses for the plaintiff; but Commissioner Senkler did not consider such conflict in the testimony as material to the issue.

On behalf of the defense, McGregor swore that on March 12th, 1898, accompanied by Stone, he staked the Magnet gulch property; that neither Bridger nor Stanford were present when the claim was located; that he and Stone returned together; that at No. 19 below on Bonanza, they met a man by the name of McMahon; that in Stone's presence, McGregor said that he had just staked No. 2 on Magnet gulch.

McMahon supported the testimony of McGregor. George A. Voss, formerly a part owner of No. 17 below discovery on Bonanza, at which place Magnet gulch enters on the left limit, gave evidence on commission at Omaha. He testified that on March 12th, 1898, he was work-

ing on the dumps of No. 17; that he saw McGregor with a man whom he did not know, going up Magnet gulch; that on the following day, he saw the stakes on claim No. 2 and that McGregor's name was on them. The witness also identified McGregor's handwriting.

Evidence was produced to the effect that McGregor had not visited Magnet gulch during the period between March, 1898, and the following month of August, and witnesses were produced who swore that McGregor's location notice was posted on the ground during that particular time.

Commissioner Senkler, in determining the case said that the testimony was overwhelmingly in favor of the plaintiff; and that the conclusion was evident that defendant McGregor, had never staked the property.

From the judgment of the gold commissioner the defendants appealed to the minister of the interior at Ottawa; and this higher authority has reversed Mr. Senkler and restored the ground to the defendants.

The decision in the suit of Kelly vs. McGregor and Boehme disposes of a case entitled Burton vs. McGregor, which involves the lower half of the same claim on a similar state of facts.

Pattullo and Ridley were the attorneys who conducted to a successful conclusion the contention of the defendants, McGregor and Boehme.

Free Library Concert.

The periodical tree concert given last night in the Dawson reading room under the auspices of the board of control proved a musical and literary treat which in point of excellence has not as yet been surpassed in Dawson. Following is the program:

Song, "Lochnagar"..... Mr. H. Craig
Song, "Only a Year Ago"..... Mrs. Thompson
Song, "Bonnie"..... Mr. Cowan
Re Itation, "Admiral's Broom"..... Mr. Fannie
Song, "Valley of Shamoulin"..... Mrs. Davison
Reading, "Rilly's Bear Story"..... Mrs. Moore
Duet, "Madeline"..... Miss Tracy, Mr. Zimmerman
Recitation, "Katy's Answer"..... Mrs. Moore
Recitation, "Bicycle vs. Broncho"..... Capt. Jack Crawford
Song, "Lulu"..... Miss Tracy
Remarks..... Dr. Macdonald
National Anthem..... Commissioner Ogilvie

Mr. Griffith Griffith in his usual efficient manner presided at the organ. The room was full to its utmost capacity with a most appreciative audience. Dr. Macdonald, in the course of a few remarks, expressed regret that the Yukon council has not as yet seen its way clear to assure a continuance of a grant of money to support that institution.

Commissioner Ogilvie replied that no one would regret more than he would himself to have the room close. It was an institution greatly appreciated, but at present he was not in a position to commit himself to promise a grant.

Among those present were: Mesdames Burrell, Heron, French, McDonald, Bozorth, Lola and Levy; the Misses Perry, Miss Robinson, Freeman, Norman, Stewart, Mosher, Ross and the Misses Gandolfo; Dr. Mosher, Dr. A. Thompson, Dr. Foster, Rev. J. J. Wright, Capt. Thacker, Messrs. Hartman, Hulme, Herbert Lockwood, Buchanan, Stevens, Moore, Fuller, Bozorth and Col. MacGregor.

William Tate Dead.

At 2 o'clock yesterday afternoon, William Tate died at the Good Samaritan hospital of pneumonia, after an illness of five days. The deceased was a native of Lingoe, Clestrom, Orkney Islands, and was aged 30 years. His occupation was that of a carpenter. He came to the Klondike in the spring of 1898, since which time he has been engaged in mining. Last summer, he suffered a severe attack of typhoid fever; and was confined for several weeks in the Good Samaritan hospital. The dead man leaves a personal estate of \$1160, which is comprised of bank accounts, gold dust and currency. He has on deposit in the Bank of British Columbia at Vancouver the sum of \$250, the amount of \$500 in the Bank of Montreal at Vancouver, and \$410 in gold dust and currency among his effects at the hospital. The deceased was unmarried; but leaves an aged mother who resides at Lingoe.

Sports Committee.

The sports committee for the Queen's birthday celebration, held a meeting last night at McDonald hotel. A full program has been arranged which will be published in tomorrow's issue of the Nugget.

Notice.

The down town branch of the Canadian Bank of Commerce will be open for business on Thursday, the 10th inst. The down town office is located in Lewin's building next to the Northern Annex.

The Holborn Cafe for delicacies.

Parties having mining ground partially worked, or full claims favorably situated, can find a purchaser through Norton D. Walling, Grand Forks. c6-3

Motor Cars in War.

In referring to the traction engines sent out recently to the seat of war, Feilden's Magazine delivers some practical observations respecting the value of motor-cars in warfare. It points out that two motor conveyances are already in use by the Boers, and that experience has shown that none but crack riflemen can hope to hit a rapidly moving motor-van except by chance, or at a short range; that such a vehicle requires very little nourishment, as compared

with horses developing equal power; and that on ordinary roads speeds may be obtained varying from 15 to 30 miles an hour. The Boers are stated by our contemporary to have ordered more vehicles from Germany, and a number of motor-cycles from France. The former have not been delivered, but the latter have, and are probably being used for scouting and dispatch work. The French, German and Austrian governments, according to Feilden's Magazine, have all taken steps with a view to the introduction of motor transport, and in this movement the Germans are particularly active, having produced a troop wagon for rapid service capable of traveling 40 kilometers an hour.

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ASSAYERS.

JOHN B. WARDEN, F. I. C.—Assayer for Bank of British North America. Gold dust melted and assayed. Assays made of quartz and black sand. Analyses of ores and coal.

MINING ENGINEERS.

RUFUS BUCK—Surveys made of underground workings, ditches and flumes. Offices at Dawson and Forks.

L. NETLAND, C. E.—Underground surveys and hydraulic concessions. Office, Room 1, Dawson City Hotel.

LAWYERS

WADE & AIKMAN—Advocates, Notaries, etc. Office, A. C. office Building, Dawson.

BURRITT & MCKAY—Advocates, Solicitors, Notaries, &c. Offices, A. C. Office Building. Safety deposit box in A. C. vaults.

PATTULLO & RIDLEY—Advocates, Notaries, Conveyancers &c. Offices, First Ave.

BELOUET, McDUGAL & SMITH—Barristers, solicitors, conveyancers, etc. Offices at Dawson and Ottawa. Rooms 1 and 2, Chisholm Block, Dawson. Special attention given to parliamentary work. N. A. Belouet, Q. C., M. P., Frank J. McDugal, John P. Smith.

ALEX HOWDEN—Barrister, Solicitor, Advocate, etc. Criminal & Mining Law. Room 21 A. C. Co's office Block.

TABOR & HULME—Barristers and Solicitors, Advocates; Notaries Public; Conveyancers Telephone No. 22. Offices, Rooms 1, 2, 3, Orpheum Building.

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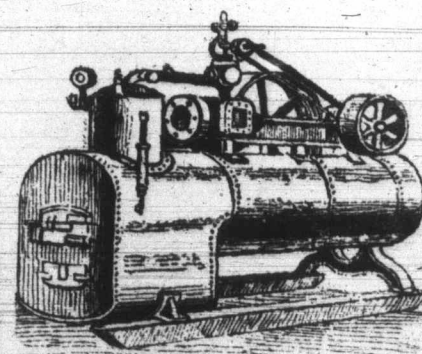
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