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THROWS DOWN GAUNTLET

Ex-Premier Dunsmuir Has Challenged Labor Unions to a Struggle for Supremacy. Says Men Must Either Quit the Unions or Leave His Employ. The Workmen Are Firm.

Special to the Daily Nugget.
Victoria, March 16. — Ex-Premier Dunsmuir has thrown down the gauntlet to union labor and has declared that his men must leave the unions or his employ. The men

are firm and there is every promise of a bitter industrial war. It is not unlikely that the mines, railway and steamers controlled by the Dunsmuir interests will all be tied up.

MANDAMUS JUDGMENT

Writ is Sustained by Mr. Justice Craig

Holds That Mining Recorder is Ministerial Officer and Enjoys no Discretion

Mr. Justice Craig this morning rendered his decision in the first of the mandamus proceedings that was brought before him relative to the issuance of a mining grant by the mining recorder, which having been refused, the case is entitled *William Keele vs. A. R. Boyes*, the latter being the mining recorder who refused to issue to the plaintiff the grant demanded. The decision is very long and covers the ground upon which the contention exists most thoroughly. In part it is as follows: "This is a motion on behalf of the plaintiff for a mandamus to compel the defendant, who is a mining recorder under the placer mining regulations, to issue a grant for mining claim No. 3. The defendant claims that the plaintiff is a free miner and is entitled to the grant. The plaintiff claims that he is a mining recorder and is not entitled to the grant. The court holds that the mining recorder is a ministerial officer and enjoys no discretion. The court orders the defendant to issue the grant." "The material put in in this case is the affidavit of the plaintiff who swears that he is a free miner; that on the 6th of January he located and staked in accordance with the regulations the claim in question; after

wards that he applied to the mining recorder (the defendant) for location and entry, tendering the proper fees, and observed all the regulations and requirements of the ordinance. He further swears that at the time of his staking and applying the claim was open for relocation and that the ground existed as he was advised by George White-Fraser, Dominion land surveyor, who surveyed and made a plan. He says that the reason given by the recorder for not issuing the usual grant was that there was no ground there. We also have the affidavit of O'Dell, who swears that he examined the records in the office of the gold commissioner and found that the claim applied for was recorded in January, 1899, and renewal grants issued for the same from year to year to the respective occupants, and that about the 27th of February the claim was abandoned by the then holder. We have the affidavit of George White-Fraser, D.L.S., who swears that he made a survey and found that claim No. 3 was a five hundred foot claim and that there are two claims now included in the original claim, of two hundred and fifty feet each between the lower line of creek claim No. 2 and the lower line of creek claim No. 3. The defendant swears that the applicant applies for ground which adjoins the lower half of No. 2 claim, Lovett gulch, and that according to the records of the office of the gold commissioner of the 7th of January—the date of the application—there was not any ground adjoining the down stream boundary of No. 2 open for location, and further, in proof of the fact that there is no ground, swears to a survey by J. L. Cote, Dominion land surveyor, to the advertisement of the said survey under the 18th section of the placer regulations, and the confirmation of that survey; and he bases his refusal to issue the grant to the plaintiff upon his investigation of the said plan because the ground surveyed and confirmed by the survey of Cote abuts upon the lower boundary of claim No. 2, which he says is the ground in question in this action, and that the said ground is not open for location."

His lordship here goes into detail concerning the duties of the mining recorder and the manner in which applications for record are made. Concerning the powers of the recorder, he says: "Nowhere in the regulations is the recorder given any discretionary or judicial powers. He is named simply as the recorder who receives applications and issues the grant. Section 55 gives the gold commissioner power to make preliminary inquiries, but nowhere that I can find is such jurisdiction conferred on the recorder. The mining inspector also has such powers in certain cases. If he has any discretion to accept or refuse grants then the right to mandamus against him does not exist. He either has or has not such a discretion. If he has such a discretion and exercises it the court should not interfere. "The serious question in this case, to my mind, was the one which I raised on the argument, and it is this—how far the mining recorder is entitled to go in his investigation of the records of his department and upon what grounds he can justify a refusal to accept the entry. Can he at all investigate or must he automatically and as a matter of course issue to every applicant who comes into his office a certificate in form 'I, who gives the necessary proof provided for in the regulations? Or can he refer to the books of the office, to maps and plans prepared by the officers of the department regularly appointed, and say from an investigation of those that a grant could not be given? If he is prohibited entirely from doing this then it is equal to saying that he cannot refuse any applicant who conforms to the regulations. I do not think that I can go that far. To a certain extent his duties are confined in that way; but if a simple reference to an order-in-council whose meaning is clear, will determine his action and if upon reading that order-in-council he finds that by the orders of a superior authority he has no power to issue a grant, then mandamus would not lie against him, or if I take it, upon reference to the books of his department he as-

certained beyond any possibility of doubt that no such territory as the territory in question existed and that the issue of a certificate of grant would be inoperative and useless, then I do not think mandamus would issue in that case; but where conflicting rights arise and he has to weigh evidence pro and con, as apparently he did in this case, I think he is going beyond his functions as a ministerial officer. I think there is no doubt that he is a ministerial officer."

In the course of his decision his lordship refers to and quotes from the judgment of Mr. Justice Davies, of the Supreme court of Canada, in the case of *Hartley vs. Matson*, appealed from this court, which confirms his lordship in the decision taken in the present case. The mere act of staking ground upon which a lease has been issued to another, gave the staker no right or interest in the land or status to come into court. Mr. Justice Davies says: "Mere staking is not sufficient; they must go further and obtain from the mining recorder their placer grants; then their remedy is by way of mandamus to compel him to do his duty; until they have obtained such grants they are in no position to attack the defendants' lease; they have neither title nor color of title and have no interest, legal or equitable, in the lands such as is necessary to enable them to maintain their action. If, having obtained their grants they desired to have the defendants' lease declared null and void it was open to them to take the necessary steps."

"This judgment to my mind," continues Mr. Justice Craig, "almost compels me to give the order asked for. It is tantamount to saying that the free miner who claims a right to enter lands in this territory claimed by another must before bringing his action have the status of the holder of a placer grant, even before he can ask the attorney general to aid his suit."

In conclusion his lordship says: "To sum up, the points I make in this case are—that whenever the plaintiff has established his right to the remedy which he seeks, that a duty is imposed upon the defendant (the recorder); that there is no other specific and adequate remedy—in fact, no other remedy at all; that the re-

order has no right in the exercise of his ministerial duties to perform any judicial functions and to investigate evidence of any kind in his department beyond a simple reference to books which are absolutely conclusive in themselves upon the rights of the parties; that in this case he did exercise judicial functions and did presume to adjudicate and determine upon the rights of the applicants based upon an investigation of evidence which he was not competent under his appointment and in his office to consider and determine upon. The order will, therefore, go for the writ without costs.

"In former times the prerogative writ of mandamus was granted with very great reluctance because there was no appeal. In these later days the writ is granted much more easily and readily, not only upon the ground that there is a right to appeal, but upon the general ground that a writ is in many cases the only and the best remedy to enforce such rights as are asserted in this case."

JUDGMENT SUSTAINED

In Case of St. Laurent vs. Mercier

Supreme Court of Canada Upholds Decision of Local Court.

Special to the Daily Nugget.
Ottawa, March 16.—In the Supreme Court of Canada the case of *St. Laurent vs. Mercier* on appeal from Yukon, the judgment appealed from was affirmed. In the original judgment Justice Craig gave a dissenting opinion. Inshavogue at the Auditorium by Bittzer Company on March 17th will be well worth seeing.

WELD RETURNS

From Pursuit of Creditor, Who is Made to Disgorge.

H. R. Weld, the well known Third avenue grocer can well claim the championship of the Yukon for long distance bicycling against time. Mr. Weld learned of the departure of Dr. Hepworth, who was in his debt about \$186, from Fortymile starting for the Tanana diggings. Although the doctor had considerable the start of him Weld lost no time—jumped on his wheel and started in pursuit. He left Dawson on Thursday afternoon, arrived in Fortymile early Friday morning and started again in pursuit of the Fortymile river. He overtook the doctor at Brown's roadhouse, which is situated 20 miles up the Fortymile and about 5 miles this side of the boundary. The doctor protested his inability to settle the account but Mr. Weld was persistent and the doctor finally made up the amount by disposing of a part of the feed and hay he was taking into the Tanana and Weld returned to Dawson, arriving here at 1:30 Sunday morning, while the doctor continued his journey.

COMPANY BOOKS

Have Been Placed Before the Authorities.

Special to the Daily Nugget.
New York, March 13.—The Metropolitan Street Railway Co. of New York has placed all its papers and books at the disposal of the authorities to assist in the investigation now in progress. Captured by Ladrones
Manila, March 3.—Ladrones captured the town of Ous, in the province of Albay, yesterday. They at first disarmed the municipal police and then surprised the constabulary garrison. Two of the constabulary were killed and fifteen were captured. At the request of Gen. Allen, Gen. Davis will furnish two companies of scouts to assist the constabulary in suppressing the disorder in Albay province. Col. Scott has been sent to Albay to command the joint forces.

WHITAKER WRIGHT NIPPED

Taken Into Custody in New York and Says Will Not Oppose Extradition—Failure of London Globe Was Due to Boer War and Not to Improper Financial Methods.

Special to the Daily Nugget.
New York, March 16. — Whitaker Wright has been arrested in New York. He says the collapse of the London and Globe was due to the Boer war rather than to improper

save an average of 93 per cent. of the assay value of the ore. "What do I think of the Yukon after seeing the mining operations in California? The more I see of such things the richer does the Yukon territory appear. You can't tell how rich this country is until you begin to compare it with a region that is not so favored, and then you begin to realize that there is not a country on the face of the globe that has the richness that is deposited in this far off portion of his majesty's dominions."

r. Beaudette has an endless variety of photographs that he obtained while touring California.

WANTED — A girl to do general housework. Apply at 323 Fourth avenue, between Duke and Albert streets. Call mornings.

IMPEDED BY WATER

Tanana Stampeders Meet With Trouble

Failed to Take Heed of Warning Against the Fortymile Route.

Another warning has come back from the Fortymile route to the Tanana in the form of a telegram. It will be remembered that the difficulties of travel by that route were abundantly set forth in the early stages of the stampeders. Letters and telegrams were published setting forth the facts in the case and indicating plainly that any who attempted to make the Tanana diggings by that route would be certain to meet with disaster.

It has been stated time and again that no provisions could be secured on the Fortymile route for a distance of 100 miles—and that for the greater part of that distance there were no accommodations either for man or beast.

Nevertheless a great many went in that direction and it is possible that they are meeting all manner of difficulty. Dr. Rimer the health officer received a telegram today sent from the North Fork of Fortymile under date of March 15th. The telegram was forwarded by carrier to Fortymile station and from there by wire to Dawson.

It is signed by W. Grant and states that stampeders on the other side of the divide are encountering water which is badly interfering with travel.

Grant was accompanied by McCullum and Robinson and they are all odditimers in the camp. It is not unlikely that many of those who attempted to reach Tanana by the Fortymile route will abandon the trip and return to await the opening of navigation.

"Do tell us what Mrs. Bonner is like." "Well, she's a woman of 60, who looks 50, thinks she's 40, dresses like 30, and acts like 20."

The Irish drama *Inshavogue* is a well chosen production for St. Patrick's day.

"Ab I knew 'bigballs' would be my finish," sighed the wild goose as a rifle bullet struck him in mid-air and brought him to the real estate.

Job Printing at Nugget office.

St. Patrick's Day
Inshavogue abounds in fun, pathos and song, produced for the first time in Dawson by the Bittzer Co. on St. Patrick's night.

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A SPLENDID HYDRAULIC FUTURE.

Government Mining Engineer A. J. Beaudette Returns From California Full of Information Concerning Hydraulic and Dredging Conducted on a Mammoth Scale.

Mr. A. J. Beaudette, government mining engineer of the Yukon, returned last night from an extensive trip through the hydraulic and dredging regions of California whither he went several months ago for the purpose of studying the methods of mining in that section with reference to the applicability of the same to this country. His trip has been one of intense interest and the knowledge he brings back with him is of such vast importance to those engaged in the mining business in the Yukon that it should be in the possession of every one in the territory. The possibilities of this territory from a hydraulic standpoint may be better understood when it is known that in California companies have expended \$3,000,000 in flumes miles in length before ever realizing a copper on their investment; are mining gravel banks 400 feet high and probably handling dirt that averages but 15 cents to the cubic yard—and which six feet above bedrock will not out of a dozen pans taken six feet above bedrock yield a single color large enough to be visible to the naked eye. Truly it has been said by a prominent mining man recently that were the same conditions existing here that are to be found in California the Yukon would be the richest spot in the universe.

plants of Butte and Nevada counties, all in California. "One of the largest and most extensive hydraulic plants I visited," said Mr. Beaudette, "was in the You Bet district where they are handling dirt at a profit that here would be considered absolutely barren. To bring in the requisite amount of water necessary to handle the dirt they do and give the head needed the company expended \$3,000,000 before they sluiced a shovelful of gravel. They are now working in a bank of gravel that has a face 400 feet high and are using two Giants, one having a discharge six inches in diameter and the other eight inches, with a head of 350 feet. The dirt I was told averaged but 15 cents to the cubic yard and the gold is very fine. I tried about a dozen pans taken six feet above bedrock and could not raise a single color. Overlying bedrock is a layer of blue cement which is very hard, to disintegrate. They used to mill it, run it through the stamps, but now they have discovered that with a big head of water they can wash it up and they are using that process instead. The amount of dirt they move in 24 hours can be readily figured out when it is understood that the duty of a miner's inch of water under the head they are using is 2 1/2 cubic yards to the 24 hours, and they are doing a little better than that, running very near 3 cubic yards to the inch. They have mined, washed away 30 acres and there is still enough in sight to last them years and years. In the past and even today there is more or less friction between the hydraulic miners and the ranchers, the latter claiming that the debris from the Giants, commonly called the tailings, coming down and debouching into the Sacramento river in such vast quantities fills up the bed of that stream and thus in high water causes the banks to overflow and cause great damage to their ranches. The trouble has not been as acute of late since the passage several years ago by the California legislature of the anti-debris bill.

reason to believe it will. There are no farms here to be inundated and no one to complain if entire mountains are swept into the river. How about the application of the same methods here? The same appliances used in California can be used with the same degree of satisfaction here. In fact, we have a very decided advantage over California in more ways than one. We have no cement here in the placer deposits, the gravel is in better condition to handle in large quantities and the gold is heavier and of a higher grade. It is true we have the frost to contend with and the result of a six or eight inch stream against a solid bank of frozen gravel is yet to be found out, but there are many rich spots in the district where the frost has been practically all extracted. Take Gold Hill and Chechaco hill, for instance, they have been so continuously mined and burrowed through that there is but very little frost, so to speak, in either of them, and I have not a doubt that if those or either one of the deposits was stripped and a solid face presented that a Giant could operate against it with the utmost success. In virgin ground it might be necessary to have two places of operation, sluice upon one while the other is thawing and vice versa, but that is a question I am not prepared to answer at present.

While outside Mr. Beaudette spent practically his entire time in the mining districts of California, investigating not the hydraulic plants alone, but also many dredging machines, quartz mines and mills, extensive water ways and dams and a number of new discoveries pertaining to the mining industry. He has not been idle a moment and in order to acquire the knowledge he sought he was not content to take the information second hand, but pulled off his coat and worked as a practical mill man or a hydraulic engineer in order that he might be positive of the matters he went to investigate on behalf of the government and the miners of the Yukon. Among the points visited during his absence were the hydraulic operations being conducted at Nevada City, You Bet, Red Fox, Shit Tail canyon and Cherokee; the dredgers at and surrounding Oroville; the quartz mines of Grass Valley and the water

"I spent quite a bit of time investigating the Elmore process of concentrating ore by means of oil and am convinced it is an unqualified success. The experiments were conducted at the University of California at Berkeley and were made in my presence by Professor Christie, who occupies the chair of mining and metallurgy at the university. The discovery is of comparative recent date and as far as I know is in use from a commercial standpoint in but two places and both those in England. The principal of it, too, is centrifugal force though it would take too long to explain it in detail at this time.

"The best quartz mine in the country and possibly one of the best in the world is that at Grass Valley. They have a magnificent power operated entirely by water power and

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