

of 65,000 tons per annum, but reserve the right to purchase the royalty at \$25,000 cash at any time. Please have the necessary papers prepared and sent to me for execution."

Thereupon solicitors for the plaintiffs prepared and sent to the defendant a draft agreement reciting, among other things, that the vendors had agreed to sell to the purchaser upon the terms and conditions therein set forth, all their right, title and interest in each of the mining claims, proceeding to say that in consideration of the premises and one dollar paid by each of the parties to the other they agreed as follows: The vendors agreed to sell to the purchaser and the latter to purchase from them all their right, title, and interest in the mining claims for the consideration of the royalty hereinafter described, and the payment in addition of \$35,000 to be payable as set out. It is also provided that:—

"3. The royalty hereinbefore mentioned shall commence immediately upon the expiration of two years from the day of the date hereof, and shall be at the rate of 15 cents for each long ton (2,240 lbs.) of ore removed from the said locations, the amount to be removed from the locations in each year to be not less than 65,000 of such long tons, and the said royalty of 15 cents per long ton shall be paid on 65,000 long tons per annum, at least, whether that amount shall be actually removed or not, and such royalty shall be payable annually on the 8th day of April in each year. Provided, however, that the purchaser shall have the right at any time to purchase such royalty from the vendors for the sum of \$25,000 cash, and upon payment to the vendors of the said sum of \$25,000 cash the vendors shall assign such royalty to the purchaser, but such purchase and assignment shall not include any royalty, the payment of which is overdue by the terms of this agreement before the date of such purchase.

4. Upon payment in full of the \$35,000 purchase-money, above mentioned, within the time hereinbefore stipulated for the payment thereof, the vendors shall execute or cause to be executed transfers of each of the above described unpatented mining claims to the purchaser from the owners thereof as the same may appear in the records of the office of the Bureau of Mines, such transfers to be to the purchaser or his nominees, and the purchaser shall as a contemporaneous act with such transfers give security to the vendors