

Butte Department.

INJUNCTION GRANTED

About Robert C. Burton's Location on Moose Creek.

AND THE MINE WAS JUMPED

The Defense is That the Ground Does Not Belong to Plaintiff - Much Valuable Ore Extracted - The Bond is \$5,000

The mining injunction case of Robert C. Burton against Louis Des Rivieres and Joseph Hamelin, was heard by Judge Speer yesterday morning. Mr. Burton's complaint was that he located in 1893, and yearly thereafter represented the Reindeer lode claim, situated on the south side of Chicken gulch, on Moose creek, and that in July of the present year the defendants jumped the ground with two locations called the Old Glory and Old Glory No. 2 and have since taken out about \$50,000 worth of gold ore. The defense was that Des Rivieres and Hamelin were not on the ground claimed by Burton, and that the latter had failed to do the necessary amount of annual representation work on the Reindeer in 1894. The case was presented to the court by affidavits.

The first affidavit read was made by Mr. Burton. He said he located the Reindeer on May 15, 1893, and that it is situated about seven miles northeast of Melrose and south of Chicken gulch on the Copper hill range. The location was made by discovering within the boundaries of the claim a well-defined vein or ledge of mineral bearing quartz and ore having two well defined walls. He marked the place of discovery by posting upon a stake or post a notice of the location, describing the corners and boundaries. On May 29, he caused a copy of the notice to be recorded with the county clerk and recorder.

At the time of making the location he marked the boundaries and the corners by setting and driving firmly into the ground at each corner a stake upon which he wrote the name of the claim and piled about the base of each stake a small mound of rocks. During the months of July and August, 1894, he caused work to be done on the Reindeer to the extent of \$100. The work was done by one James Cummings, and consisted in running an open cut 30 feet long and four feet wide by four feet deep, all in very hard picking rock and done for the purpose of exploring and developing the claim.

Mr. Burton says he has been engaged in mining operations for 20 years, and knows that the work done is reasonably worth \$100. On the 13th of the present month he sent Cummings and another miner to the Reindeer with instructions to represent the claim for this year, but when they arrived there they discovered that the defendants were trespassing on the claim and had made two other locations on the ground on or about July 5, each of which locations covered a portion of the Reindeer.

Mr. Burton was first notified of the trespass a day or two later when Cummings hastened to return to Butte and informed him of it. Prior to that time he had no knowledge whatever that any acts of trespass were being committed by anyone. Mr. Burton further said that he was well acquainted with both defendants, and that shortly prior to Dec. 12 he met Des Rivieres in Butte and talked with him about other business matters, but he made no mention of the mining ground in question or his work thereon. The reason Burton did not attempt to represent the Reindeer earlier in the year was because he was busy engaged in doing representation work on other claims and left the Reindeer until the others had been represented.

On Dec. 15 Burton visited the ground in company with W. T. Boardman, Thomas Moffet and a Mr. McDonald, and with them and the defendant, Joseph Hamelin, walked directly to the northwest corner of the claim and pointed out to them the stake he had placed there at the time of the location of the claim. The post was illegibly marked "Reindeer, northwest corner." Hamelin would not accompany the affiant and witnesses to the other corners, but they visited each one, and had no difficulty in discovering the posts at the northeast and southeast corners, but were unable to find the post at the southwest corner as the country at that point was very rough and rocky, and there was snow on the ground. Burton said he was informed and believed that the defendants at the time of their locations of the two claims new of his location of the Reindeer, and that he still held it. He has ascertained by accurate measurements that the point where the defendants have been working and extracting ore is within the end lines of the Reindeer, a distance of from 200 to 250 feet. As soon as he was assured that they were working upon and extracting ore from the Reindeer he immediately applied to the court for an injunction.

James Cummings made affidavit that in June and July, 1894, he performed the representation work on the Reindeer as related by Mr. Burton and that the work was well worth \$100. While at work on the claim he saw the stakes and posts marking the boundaries and knows that they were at that time in their proper position, legibly marked and securely driven in the ground. While performing such representation work several parties about that vicinity well knew that he was doing the work to represent the claim, among the parties being one Curtis and one Helehan living in that locality. Cummings assisted Burton in making the location of the claim on May 15, 1893. He was sent out again on the 12th of this month to represent the property for this year and found the defendants at work there and he immediately notified Burton.

W. T. Boardman and T. J. Moffet made affidavits to the effect that they accompanied Mr. Burton to the Reindeer on the 15th of the present month and examined the ground and found stakes, properly marked, at all the corners except at the southwest. The three posts bore evidence of having been exposed to the elements for some time, perhaps a couple of years, and also indicated that they had been driven into the ground by the use of a sledge or hammer. They also examined the point of discovery and found a well-defined vein or ledge of mineral bearing quartz in place with two well-defined walls.

The point of discovery is situated near the center of the Reindeer claim. They also saw the work that had been done in representing the claim, consisting of the open cut referred to and they considered the work well worth \$100.

The only evidence offered by the defense was an affidavit by one John Donovan who said he worked for Mr. Burton in the summer of 1893 between Soap gulch and Moose creek and made the discovery for him and sunk the discovery shaft to a depth of between four and five feet from the surface. He did not know whether he reached bed rock or not and could not say that there was a lead there, or a vein of ore, or whether there were any wall rocks. He also staked off the claim, but there were no stakes placed at the corners. He pointed out the discovery shaft to T. T. Baker, Louis Des Rivieres, George Zink and John McIntyre. Donovan said he was to have had a half interest in the Reindeer, notwithstanding it was located in the name of Mr. Burton. Donovan says he was on the ground on the 24th of this month and saw where Burton now claims the discovery shaft is located, which is between 1,500 and 2,000 feet from where the actual discovery was made and recorded. Donovan also says he sunk the discovery hole on the Fawn lode claim and also staked it out for Mr. Burton and was to have a half interest in it. The Fawn adjoins the Reindeer on the north.

The arguments on the affidavits were brief. Mr. Shropshire and Judge Stapleton claiming that the facts shown were not sufficient to justify the court in granting an injunction. Still they did not strongly oppose it provided a good bond was exacted for the purpose of protecting the defendants. Mr. Shropshire thought that a bond of about \$50,000 was about the right size, which made the court smile.

Mr. Forbis said the ore would remain in the ground and that the only damage the defendants could suffer would be the loss of interest on the profits.

The court granted an injunction and fixed the bond at \$5,000.

NOTHING SUCCEEDS LIKE SUCCESS.

Some of the Notable Undertakings in Butte Which Have Met With Success.

Butte, Dec. 28.—Up in Centerville is a very large brick block of fine property owned by our well known townsman, Mr. Pat Mullins. The first floors are all divided up into store rooms, while the upper floors are occupied as a boarding and lodging house which has been conducted by Mr. Mullins very successfully for years. Up to about a year ago two of the largest of the store rooms were occupied for a number of years by Wilson Bros., who vacated the premises February last, whereupon Mr. Mullins decided to put in a stock of goods and conduct a general merchandise business on his own account. He went to it with the energy characteristic of the man and soon had the business going at a gallop surprising to his many friends. Mr. Mullins possesses that valuable faculty of selecting competent men for managers and assistants, men who not only understand the business, but who are agreeable and courteous to customers and who inspire confidence in the part of those with whom they come in contact.

The Centerville store is divided into two distinct departments, one room being devoted to dry goods, gents' furnishings, shoes, hats, etc., and is presided over by M. H. Kane, while the other room is devoted to groceries and provisions, the stock being one of the largest of the kind in the city and in charge of Lew C. Hoffman, while R. J. Dwyer handles the important affairs of the office.

One of the best evidences that this business is conducted to the great satisfaction of the trade is the fact that he goes in there when you will and you will find all the buyers who can be waited upon. The success of this store and the convenience of down town customers led Mr. Mullins, a few months ago, to rent the large store room, No. 220 North Main street, and fit it up in spacious manner for a grocery business under the firm name of Pat Mullins & Co. All things considered there is no doubt but what this is the finest retail grocery stock in Montana and the large business transacted must be alike gratifying to the proprietor and gentlemen in charge.

This store is under the management of Henry Walsman, ably assisted by his brother William and Henry Large, while the office is presided over by Harry Galloway. The stock of fine family linens carried in this store is not excelled anywhere and can be relied upon as the best available.

In connection with this store Mr. Mullins has opened one of the nicest meat markets in the city. Like all the other branches of his business, the stock carried in this market affords in all kinds of fresh meats, sausages and poultry. Manager, William Mullins. Few, if any, business enterprises in this community have met with as notable success as these large undertakings, which speaks well for the esteem in which Mr. Mullins is held, as well as for the straightforward, intelligent management for which the business is noted. If you want good reliable goods call on our genial friend, Mr. Mullins, whether it be at the grocery store on the hill or the mammoth grocery and meat market down town, and you will be pleased.

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HIS SNEER LEFT HIM

Walter Lowe Has Lost All Desire to Smirk and Grin.

HE'S BOUND OVER IN \$3,000

Bessie Davis is Held Under Bonds as a Witness—Their Shameful Conduct Will Be Investigated in District Court.

Walter Lowe's sarcastic smile grew fainter and fainter during the progress of his trial for abduction before Justice Turner yesterday morning. There wasn't much of it left when Bessie Davis was recalled and denied emphatically what he had sworn to positively, and the last trace of a sneer disappeared when the judge bound him over to the district court under bonds of \$3,000.

The court room was again crowded, and the officers cleared it of all who could not find seats. The prosecution had rested the day previous and the case for the defense was now presented. The first witness for the defense was W. H. Miller, a waiter and the room-mate of Lowe. He said that about midnight on Sunday the two girls and Lowe entered the room, and played cards for a while. Lowe then told the girls to go into another room, but they refused to do so, the witness said. A pallet was made on the floor, and the girls slept there while he and Lowe laid on the bed. Lowe went to work early in the morning and the girls left about 7:30. The witness said that Lowe wanted the girls to go home early in the evening, but Bessie said she didn't want to wake her mother up and would not do. Miller said he was not in the room the second night.

On cross-examination Miller denied that Lowe came for him when there were two girls in the room and that he accommodatedly stayed out when Lowe was there alone with Bessie. He did not give any explanation of how he happened to be in the room Sunday night and was not there Monday night. He said that Edith Bailey was mistaken in saying Lowe took his pants off that night.

J. P. Rowan, a cook at Baker's restaurant, said he saw all the parties in room 36 on Monday morning. He went there to get the girls to go home and they left after some coaxing. Later in the day Bessie came to the restaurant and said she must see Lowe. Richard Rodgers, another cook, testified that both girls came to the restaurant to see Lowe, Edith once and Bessie several times.

The defendant was next placed on the stand. He gave his full name as Walter Raleigh Lowe, 19 years old and a dish washer at Baker's restaurant. He told about calling for Bessie Davis and not taking her to church, and about going to Edith Bailey's house and getting her to go up town with them. Lowe said it was late when they started home and he told them they could both go to his room if they wanted to. He said they told him it would not be the first time they had been to a man's room. He had insisted, he said, on both girls going home, but they refused to do so.

"There were no indecent exposures in the room," he said, "but Bessie and I both played around like a couple of kids."

Lowe gave the same particulars of the night that Miller had given. He met Bessie on the street next day and they had supper together. He then tried to get her to go home, but she insisted on going to his room. He finally left her there when he went to his room and he found her waiting when he returned. He did not want her to go to his room Monday night because he knew her mother was looking for her and that the police might arrest them both.

Lowe had a pretty hard time on cross-examination. He admitted he had taken the girls to a beer saloon and had filled them up with beer when he had promised to take them to church. He admitted that he took Bessie to his room, because she insisted on it. Mr. Wines asked if he meant that he was seduced by the child, to which Lowe did not reply. He admitted that he knew it was wrong to take a child to his room for immoral purposes, and that he would get a terrible roasting if it got out. The defendant denied that he had criminal intercourse with the girl.

The defense rested there and County Attorney Wines recalled Edith Bailey. She said that Lowe begged them to come to his room, and said, "Come on to my room, Edith. Don't be afraid; I will stand your mother off."

Bessie Davis was then recalled and made a sensational statement. Lowe had said positively that he had had no criminal intercourse with Bessie. She said positively that she knew what the question meant and that she had been criminally intimate with him on Monday night. Lowe was evidently shocked and lost his sneering air.

The case was argued at length. Mr. Wines made a scathing denunciation of Lowe, characterizing him as a confessed libertine, rascal and confessed perjurer.

Judge Turner did not wait a minute, but held the prisoner to the district court under bonds of \$3,000, and held the girl under bonds of \$500 as a witness.

A certificate of the marriage of the girl's mother was produced in court after the case was over. At the bottom of the certificate was an endorsement showing that the girl was born at 6 a. m. on August 3, 1880. This shows that her age is 15 instead of 16, as claimed on the stand by the girl and by her mother. The mother at first thought the age was 15, but placed it at 16 on cross-examination. The girl herself gave her age to several reporters as 15 at the time she was arrested, but gave it at 16 on the stand. Being under 16, it will be possible for the county attorney to indict Lowe for criminal assault. Abduction holds in cases of females under 18, so that the age cuts no figure in the case for which Lowe is held.

Mr. Davis stated yesterday that he had not given his consent for the girl to marry Lowe in order to settle the matter, and had not said so to anyone. It was bad enough, he said, to endure the disgrace brought by the girl without having to endure such a vile wretch for a son-in-law.

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