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BRADSHAW MINING DISTRICT.

MONTEZUMA CITY, Sept 14, 1864.

At a meeting of the miners of the Bradshaw Mining District, on Turkey Creek, in the Territory of Arizona, Mr. Moore was called to the chair, and Dr. G. M. Willing appointed Secretary. The following proceedings were then had:

The district was declared to be ten miles square, commencing at a monument in the town of Montezuma, on Turkey Creek, which shall be the centre of the district; and this in open meeting was declared the limits of the boundaries of the said mining district of Bradshaw.

On motion Mr. M. Solomon was nominated and by acclamation elected President of said mining district for the time specified in its laws. Dr. George M. Willing was nominated and duly elected Recorder.

LAWS.

SECTION 1. The name, style and title of this district shall be the Bradshaw Mining District of Arizona Territory.

2. The officers of this district shall be a President and a Recorder.

3. It shall be the duty of the President to preside at all meetings of the miners, and cause the laws, rules and regulations of the district to be faithfully executed, and until the government of the United States shall, by act of Congress or otherwise, establish laws regulating the same. The President shall be ex-officio judge of the miner's court, before whom all causes relating to the mines shall be tried. He shall hold his office for the term of one year, or until his successor is duly elected and qualified. In the absence or inability of the President the Recorder shall perform the duties pertaining to the office of President.

4. It shall be the duty of the Recorder to keep a true and correct record of all mining lots, claims, discovery lots, and building sites, or lots or parcels of ground not enumerated herein, in a book set apart for that purpose. He shall also in person or by deputy bound and number all mining claims or lots or parcels of ground, as set forth in these laws, and give to the claimant a certified copy of the same on payment of fees. He shall also be ex-officio clerk of the miners' court.

5. The said Recorder, for compensation for such services, shall be entitled to the following fees: For recording a placer, ledge or other claim, \$1; for recording mill site or lot, \$5; recording deed or transcript, \$2.50; affixing seal of office, 25 cts.; administering an oath, 25 cts.; each summons and subpoena, 2 cts.

6. On the 14th day of September, 1865, and on the 14th day of September of each succeeding year, there shall be held an election for the officers of this district, which election shall be by ballot. Any five persons present who are qualified voters under the laws, may appoint a judge of said election, which judge shall appoint two clerks, and may proceed to receive the votes of the miners for the officers to be elected. No person shall be a voter at any such election after the 14th day of September, 1864, unless such person shall have resided in this district thirty days prior to the day of said election, and no person shall be entitled to a vote unless such person is connected or associated with some mine in this district, and no person shall be entitled to a vote by proxy.

7. It shall be the duty of said clerks of each election held within the district to record the names of each voter and mark upon the ticket the number of such ballots in plain figures, each clerk keeping a separate list of names and votes, and at the close of the ballot box to record the votes counted by the judges of said election in the presence of three witnesses, one copy of which record, of both names and votes, shall be filed with the Recorder, and one copy with the President of said district.

8. Each person within this district shall be entitled to hold the following claims. The work-

ing of one of said claims shall be evidence of the working of all, and shall hold the same as if all were worked, provided, however, that each and every discovery lot or claim, and one pre-emption lots or claim, by location, near said discovery, shall be held inviolate to the discoverer, whether worked or not, or whether it shall be one or the other of the claims mentioned in this section:

One discovery lot on all ledges, and one by location, one placer claim, one hill claim, each consisting of three hundred feet square, and one lot for building purposes, 50 by 150 feet, and one water claim, and one mill site one hundred yards square.

9. No person shall take up a claim within this district for agricultural or ranching purposes to the exclusion of mining operations, nor shall such claimant to such land hold the same only under the laws of this mining district, and the same may be taken up as mining claims by the miners thereof. Provided, however, that all improvements of value on such land shall not be interrupted or damaged, but when a valuable mine is known to exist, and any such improvements be thereon, the damages shall be assessed by three disinterested persons, and the claimant of said mine shall pay to the owner of such improvements the assessed value of such damages.

10. Two or more persons may form themselves into a company for the more profitable and perfect working of their claims, and said company or companies shall be protected and defended as is provided for each and every individual miner.

11. Said company or association may take up and hold a claim of one of all the above mentioned classes of claims for each and every member of said company, and for each operative in their employ, and that may be duly employed by said company in the working of said claims. Each company shall have the right of all the discoveries made by them as single miners, with right of way for roads, sluices, mills, tunnels, or other operations necessary for mining purposes. Any miner or company of miners may, in addition to the grants specified in these laws, acquire and retain by transfer, devise, or purchase, any claim or claims by any miner of this district or persons holding a claim therein, and said transfer shall be by deed conveyed and acknowledged before the recorder of said district, and recorded by him. And when the party resides without the district, then such transfer shall be acknowledged before any judge of any court of record in the United States or the Territories, and the same shall be recognized by this district as valid, and admitted to record.

12. These laws may be altered or repealed only in the following manner: Any eight persons, members of this district, may petition to the President thereof to call a special meeting of the miners, or at their regular sittings, stating for what purpose in full, and upon the receipt of such petition the President shall cause six notices to be put up in six of the most public places of the district, ninety days before the day of calling together the miners for such meeting, to take into consideration only the subject matter contained in said petition; and the same rules shall be applied to all such meetings as is applicable to voters in this district, each member thereof to be a qualified voter; and then it shall be determined whether the matter contained in such petition shall be acted on. And no other matter or subject relating to the miners shall be acted upon in said meeting, unless two-thirds of the miners of said district shall consent to the same, and are present at said meeting. At such meeting no law shall be passed affecting the title to a mine acquired under pre-existing laws.

13. Every miner shall be considered a representative of this district, and shall be entitled to a seat in said meeting.

14. It shall be the duty of the clerk to keep a correct list of names of such miners alphabetically arranged, and call the names as if it were a regularly constituted legislative body, and when it is required by any member to note absentees. The Recorder shall have power to appoint a clerk when it is his duty to preside.

15. Parliamentary usages shall be observed in all miners' meetings, and such rules as the miners shall adopt.

16. It is further provided that on account of the danger apprehended by depredations from Indians, and the safety of the mining community, no person or persons shall be compelled to work any mine for the space of one year, commencing on the 14th day of September, 1864, and ending September 14, 1865.

17. These laws, rules and regulations shall be in force from and after their passage.

MAX SOLOMON,
 G. W. WILLING, Sec'y. President.

THE VULTURE LODGE.

United States District Court, Third Judicial District, Territory of Arizona.

Wm. R. Murray, and Wm. Roberts, vs. Henry Wickenburg, J. A. Young, J. K. Simmons, James A. Moore, and Valentine Griegerick—In Chancery.

The complaint in this case avers that one Theodore Green Rusk, under whom, by deed of conveyance, the plaintiffs' claim, in partnership with Henry Wickenburg, and E. A. Van Bibber, discovered and located the gold-bearing quartz ledge known as the Vulture Ledge, under the mining laws of Spain and Mexico, existing and in force in this Territory, and the usages and customs there prevailing, in the month of October, A. D. 1863. That the said mining laws were complied with as far as could be, owing to the absence of legal organizations and proper tribunals in the Territory. That the said Theodore Green Rusk occupied and worked the claim in said quartz ledge jointly with the other partners, for a period of two months, when he went away on business, with the intention of soon returning; at the same time leaving his interest in the said quartz ledge in the charge and possession of his said partner, Henry Wickenburg, as well as the joint interests of the company, which the said Henry Wickenburg promised to keep and protect for the said Theodore Green Rusk, until such time as he should return. That the said Theodore Green Rusk was prevented by sickness and unavoidable causes, from returning immediately and working his said claim, until the 20th day of June, A. D. 1864, thereafter, when he sold and conveyed all his right, title, claim and interest, to the quartz ledge aforesaid, to the complainants. That they went to take possession of their interests in said quartz ledge and work it in good faith, when they found the same in the wrongful and fraudulent possession of the defendants, who neglected and refused to deliver them the possession thereof. That the defendants are now employed in extracting and conveying away the ore from said quartz ledge, and grinding it in arrastras, in fraud of your complainants' rights, and to their great detriment and damage. And they therefore pray for a writ of injunction restraining and enjoining the said defendants and all others concerned, from extracting, carrying away and crushing the ores of the gold-bearing quartz of the Vulture ledge, and from selling, transferring, or otherwise disposing of the same.

The affidavit of Henry Wickenburg, one of the defendants, to show cause why the injunction should not issue, says: that defendant discovered a gold-bearing quartz ledge, being the one referred to, sometime about the 1st of November, A. D. 1863. That thereafter deponent and the other persons therein named, put up a notice, of which the following is a copy, on said mine, to-wit:

NOTICE.—The undersigned claim this lode or ledge, the Vulture, with all spurs, dips, and angles of minerals contained thereon. And according to the laws of this Territory, Arizona. This November 24, 1863.

A. Van Bibber, H. Wickenburg,
 T. B. Green, N. K. Estill,
 W. Smith, A. Fisher.

And deponent further says, that no other notice was ever put up on said ledge, and no other proceedings of any kind, name or description, in regard to said Vulture ledge was ever had by said T. B. Green, or Theodore Green Rusk, or any other person, until the 9th of May, A. D. 1864. That said T. B. Green, or Theodore Green Rusk, if he be the identical person, by different names, took some specimens from the said Vulture lead on the day of posting the said notice, and left said Vulture lead the same day and never returned thereto. That the said Vulture lead was left from the day of said notice until the 9th day of May, A. D. 1864, entirely unoccupied and in the possession of no one, when the same was taken possession of by defendants in this suit. That said T. B. Green, or Theodore Green Rusk, never was in possession of said mine, and no one for him, and never worked the same either jointly, or otherwise, with deponent or any one else. That said T. B. Green, or Theodore Green Rusk, never left his interest in said mine in deponents possession, nor was deponent ever the partner in said mine with said T. B. Green, or Theodore Green Rusk. That deponent never agreed to protect for the said T. B. Green, or Theodore Green Rusk, said mine until his return, as charged in plaintiffs' complaint.

J. A. Young, another defendant, deposes, that on the 9th of May, A. D. 1864, when defendants took possession of the Vulture ledge, no person was in possession of said ledge, and that there

was no appearance that any person had ever camped there, or remained there, for one day even; no shaft was sunk, no work had been done on said lead or ledge, and nothing whatever had been done on said ledge or mine of any kind.

The defendants severally depose and swear, that they are now at work with nine arrastras, and would be damaged at least seven hundred dollars per day, if they were enjoined from working on the said ledge.

A writ of injunction to restrain the working of a mine is one that Courts of Equity only grant in cases where there exists no other remedy, and where the refusal to grant such relief would cause great and irreparable injury.

The nature of mining requires that the works should be kept in a constant state of repair and activity, and an injunction for causing such operations to be at once suspended, might produce an injury which might be of the most fatal consequences, both with respect to the costs of recommencing the suspended operations, and with respect to rival ownership, by which the most favorable opportunity for disposing of the produce might be lost. As a general rule, therefore, the Court will not interfere, by injunction, on motion, and before the cause is fully heard, in cases where there is either great expenditure or great delay.

Rockwell on Mining, pages 583-4.

It must always require a strong case on the part of the plaintiff to demand the interference of the Court, by injunction, in cases of trespass by the working of mines. The remedy cannot be administered on every occasion of injury. There must exist an urgent necessity for so strong a proceeding, otherwise the parties will be left to their remedy at law.

A motion was made before Lord Hardwicke to restrain a lessee from working a coal-pit irregularly, and to the detriment of the lessor. The chancellor refused the injunction, and observed, the Court grants injunction to stay the working of a colliery with great reluctance, from the great inconvenience it occasions and it never will do it, but where there is a breach of an express covenant or an uncontroverted mischief.

Rockwell on Mining, page 585.

To authorize an injunction there should be not only a clear violation of the plaintiff's rights, but the rights themselves should be certain and capable of being clearly ascertained.

Olmsted vs. Loomis—6 Barb. 152.

When the legal right of the plaintiff is denied by affidavit as broadly as it is asserted, the application stands upon the same ground, and should be governed by the same rules as when the whole equity of a complaint is denied by the answer.

Perkins vs. Warren—6 Pr. R. 341.

It was a general rule, however, that if the facts on which the complainants equity rested were positively denied, the injunction must be dissolved.

Gibson vs. Tilton—1st Bland, 355.

In this case the plaintiffs' rights rest, first on an alleged partnership, existing between Van Bibber, Green, and Wickenburg, in the discovery and location of the Vulture lead. Wickenburg positively denies the existence of any co-partnership whatever, and Van Bibber does not appear in the case at all. No facts are alleged in the complaint from which a co-partnership is to be inferred. The counsel for the plaintiffs, in argument, claims that a partnership resulted from the discovery and location of this lead at the same time, by these three parties, under the Spanish-Mexican law, and the usages and customs of miners in this Territory. There is no allegation in the complaint that the customs of miners in this Territory do thus presume a partnership from the mere fact of discovery and location of a lead, and the placing of a notice upon it, signed by several names.

The Supreme Court of California, in the case of Gore vs. McBrayer, 18th Cal. 582, held "that after the notice appropriating the lead was put up, G. became a tenant in common of the mine, and not a partner, and could bring his action against McB. or any one who excluded him from his right."

The complaint alleges that the Spanish-Mexican mining law exists and is in force in this Territory, and under its provisions the plaintiffs' rights accrue.

Questions concerning mines and mining rights, in Mexico, depend in a great measure upon the provisions of the ordinance of the 22nd of May, 1763, which although ordained long before her independence, by the Sovereign of the parent country, is still in force and constitutes

[CONCLUDED ON THIRD PAGE.]