

1904

SANDBERG v. FERGUSON.

*Oct. 21-24. *Mines and minerals—Location of claim—Planting of Posts—Formalities required by Statute, R. S. B. C. (1897) c. 135, s. 16—61 V. c. 33, s. 4 (B. C.)*

APPEAL from the judgment of the Supreme Court of British Columbia, affirming the judgment of Martin J. at the trial (1) by which the plaintiff's action was dismissed with costs.

The plaintiff's action was on an adverse claim for the purpose of determining the title to two overlapping locations. At the trial, before Martin J. without a jury, judgment was entered in favour of the defendant which was affirmed by the full court on appeal. The principal questions raised upon the present appeal by the plaintiff to the Supreme Court of Canada were; First: After No. 1 post has been properly planted on a claim may No. 2 post be placed in ice or shifting ground, such as a glacier, and; Secondly: Whether there was sufficient proof of the defendant's presence on the senior claim as located at the time of the over-location by the plaintiff.

*PRESENT :—Sedgewick, Girouard, Davies, Nesbitt and Killam JJ.

(1) 10 B. C. Rep. 123.

After hearing counsel on behalf of the appellant and without calling upon counsel for the respondent, the Supreme Court of Canada dismissed the appeal with costs.

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Appeal dismissed with costs.

S. S. Taylor K.C for the appellant.

Davis K.C. for the respondent.
