

(c.) Where any such officer as aforesaid is plaintiff, costs shall not be given against him.

(d.) In lieu of decreeing a forfeiture, the Court, having regard to the special circumstances of the case, may in its discretion inflict a penalty of not more than one hundred pounds, with costs of suit; and, if the costs so awarded do not cover the reasonable expenses actually incurred by the complainant in the suit, the Court may, out of such penalty, allow to him such sum as it thinks reasonable.

Fine instead of forfeiture

(e.) The decree of forfeiture may be made notwithstanding that the evidence establishes abandonment by operation of law.

*As to Abandonment of Mining Privileges by Operation of Law.*

185. Subject to the provisions hereinbefore contained relating to protection, and also to registration by transferee in good faith, a mining privilege shall be deemed to be abandoned by operation of law in any of the following events, that is to say:—

When mining privilege deemed abandoned by operation of law. 1898, No. 38, sec. 151

(a.) If it is intentionally abandoned; or

(b.) If the land comprised therein has been entirely unused for its proper purpose, or unoccupied, or neglected, for any continuous period of one month in the case of a mining privilege on which machinery, buildings, erections, or works adapted for the efficient *bonâ fide* working or use thereof do not exist or are not in *bonâ fide* course of erection or construction, or three months in any other case:

Provided that this paragraph shall not apply in the case of any race or dam held exclusively for other than mining purposes, nor in the case of a business-site or a residence-site; or

(c.) If, in the case of a race or dam held exclusively for other than mining purposes, it is entirely unused for its proper purpose for any continuous period of twelve months; or

(d.) If, in the case of a business-site or a residence-site, it is entirely unused for its proper purpose, or unoccupied, or neglected for any continuous period of six months; or

(e.) If, in the case of any mining privilege, default for twelve months is made in the due and punctual payment of any prescribed rent, royalty, or license fee.

186. Irrespective of the cases of intentional abandonment specified in the last preceding section, a dredging claim shall be deemed to be abandoned by operation of law if for any continuous period of more than two years, whether protected or not, a suitable dredge is not working or in course of construction on the claim or in the vicinity thereof.

When dredging claim deemed abandoned. 1900, No. 64, sec. 7

187. Except in the case of a water-race used exclusively for other than mining purposes, a race shall be deemed to be intentionally abandoned in any of the following events, that is to say:—

When water-race deemed intentionally abandoned. 1898, No. 38, sec. 152

(a.) If, in the case of a race constructed for the continuous flow of water, the water fails to flow continuously therein during any continuous period of not less than seven days, or during any continuous period of not less than three months such race is not used for its proper purpose; or