

Judgement of the Lords of the Judicial Committee of the Privy Council on the Appeal of Williams v. Morgan, Hall, and Pattison, from the Supreme Court of Queensland; delivered 4th February, 1888.

Present :

LORD WATSON.
LORD FITZGERALD.
LORD HOBHOUSE.
LORD MACNAGHTEN.
SIR BARNES PEACOCK.

[*Delivered by Lord Watson.*]

This is another action brought by a mining right holder against a mining lessee; and it involves the same general question under the Queensland Gold Fields Act of 1874 which was disposed of in the preceding case. The main point of difference between the two cases is that, in the present, the Plaintiff, before bringing his action, with the view of fortifying his title, went to the leasehold area for the purpose of taking possession of four several parcels of ground within it, and working them as claims, but was obstructed by the Defendants, and so prevented from attaining his object. The Court below, holding that these four parcels, as described in his declaration, exceeded the extent of land which the Plaintiff was entitled to occupy as a claim, decided against him on the authority of "*The Queen v. Cribb*" (2 Queensland, L. J., 159). In that case the Court refused to issue a *mandamus*

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to compel the Warden of the Crocodile Creek gold field to register as a claim a piece of ground which exceeded the limits specified in the statutory regulations. Their Lordships see no reason to doubt the soundness of the decision in "*The Queen v. Cribb*"; but it appears to them that the preliminary proceedings taken by the Appellant were unauthorized by the statute, and could not have the effect of setting up his defective title; so that his case falls within the rule already laid down by them. Their Lordships will, therefore, humbly advise Her Majesty to affirm the order appealed from, and to dismiss the appeal. The costs of the appeal must be paid by the Appellant.
