

torrent it must either all escape by the cribs, or simply accumulate and form a lake within the walls of the excavation.

It remains to be considered whether there is danger to the navigability of the streams from the breaking, decaying, or destruction of cribs. The cribs are built of logs about a foot in diameter, notched at the corners, and laid in log-cabin style, lined within with heavy planks, tightly nailed, and covered on the outside with planks in a similar manner, so that the opening within, in the clear, is about three or four feet square. It is claimed by the defendant that this material will not decay so long as it is kept moist by the surrounding mass. I do not think that that contention is well established by the evidence. The cribs in time will decay, but they will last for many years, and they will doubtless considerably outlast the use of these pools for impounding reservoirs. After the pools shall have been filled up with mining debris, and these cribs shall no longer be the outlet of the water of the mine, I do not perceive any harm that can come from their decaying. By that time the impounded material must have become, to a large degree, compact and solidified, so that the caving in of any considerable portion of it need not be expected; and, if it should cave in, it is plain to my mind that the result would be simply to choke up the shaft, and permanently close the same. This view is supported by the history of the use of the shaft heretofore. It is proven that the sudden discharge into the shaft and tunnel of a greater amount of debris than the water could carry away has resulted in a choking up of the outlet, and that the mass of material and water above has simply served, by its pressure, to increase the difficulty of removing the material and reopening the shaft. In short, the danger to be apprehended from the operation of the North Bloomfield mine, with its impounding reservoirs, as constructed and used and intended to be used, is so remote and improbable that the court is not justified in enjoining the use of the property, and thereby interdicting a valuable industry.

In arriving at this conclusion I am not unmindful of the great damage to navigation that has heretofore resulted from the deposit of mining debris in these streams, nor of the important interests that are involved, but I am convinced that in the case of this particular mine the contingency has arisen which was contemplated in the decision of this court in the Mining Debris Case, in providing that the decree might thereafter be modified upon a showing to the court that a plan to obviate the injuries had been successfully executed.

The injunction will be denied.

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UNITED STATES v. LAWRENCE et al.

(Circuit Court, N. D. California. October 5, 1892.)

(No. 10,738.)

**NAVIGABLE WATERS—OBSTRUCTIONS—HYDRAULIC MINING—INJUNCTION.**

An injunction will be granted, at the suit of the United States, to restrain hydraulic mining operations, when it appears that the dam con-

structed in connection with the impounding works is of wood, standing in the bed of a torrential mountain stream, and of necessity is liable to be carried away by freshets, so as to discharge all the impounded debris into the streams, thereby causing great damage to navigation.

In Equity. Suit by the United States against Charles H. Lawrence and others to enjoin the operation of certain hydraulic mining, as dangerous to navigation. Injunction granted.

A. L. Rhodes and Alfred Barstow, for the United States.

C. W. Cross, for respondent.

GILBERT, Circuit Judge. The bill filed by the complainant in this case is similar to the bill in the case of *U. S. v. North Bloomfield Mining Co.*, (53 Fed. Rep. 625;) and the defenses here made are substantially the same as those made in that suit. It is claimed in the answer of the defendants that they have established a system of impounding works whereby all material liable to injure the navigability of the streams referred to in the bill is impounded and retained upon the premises, and does not enter the navigable streams. The mining debris from the defendants' mines escapes through a shaft 90 feet deep, sunk in the lower level of the mine. Thence it is discharged into a tunnel 3,000 feet long, which empties into Canyon creek. About a quarter of a mile below the exit of the tunnel a dam has been constructed across the channel of the creek. This dam is a crib dam, composed of heavy fir logs, pinned together at the corners, and raised to the height of 28 or 30 feet. The interior of the crib is filled with stones. The dam has caused the water to set back to a considerable distance in the stream, creating a pond. Into the upper portion of this pool the mining debris is carried from the tunnel. During the time this restraining device has been used, the mining debris has worked its way down towards the dam, and filled up some portion of the reservoir. The exact proportion of the pool which yet remains to be filled is not definitely fixed by the testimony, but the evidence would indicate that there still remains an impounding pool extending back from the dam a distance of about 1,000 feet, in which no portion of the debris or material discharged appears visible above the surface of the water. It appears, also, that the current of the water in the dam is sluggish, and that during the operation of the mine, and the discharge of debris into the pool, there has been an appreciable current in the water; but the evidence does not show that any considerable amount of debris calculated to lodge in the streams below, or to injure their navigability, has been discharged over the dam. The width of the impounding pool is from 125 to 200 feet. The dam itself is constructed at a narrow place in the stream, and it is anchored against rocks projecting from either side of the ravine, which rocks are in situ, are firm, and afford a strong and solid abutment to support the dam.

In deciding whether a mining operation conducted with this kind of an impounding device should be restrained by the court, I am moved, not so much by consideration of the question whether or

not the mining debris has been successfully impounded by the defendants heretofore, as by the probability of its escape from the impounding pool, and its consequent injury to the navigability of the lower streams in the future. The dam in question appears from the evidence to be strong and well built. It is doubtless capable of sustaining great pressure. It is a wooden dam, however, and it stands in the bed of a torrential stream. It necessarily follows that it is liable to be carried away by freshets. The same forces that have broken similar dams heretofore are liable at any time to destroy this dam; and, if it should be thus destroyed, no one can doubt that all the mining debris now impounded above the dam would by the same destructive force be carried into the streams below. Canyon creek empties into the north fork of the Yuba river about a mile below the dam. The north fork of the Yuba discharges its waters into the main Yuba, thence into the Feather river, thence into the Sacramento. The evidence would indicate that the impounding reservoir is not full, but that its capacity, while considerably reduced, at present may be increased by raising the dam to a height of 100 feet or more.

It is evident that with the increased height of the dam a corresponding increase in its length must be made, thereby entailing a corresponding increase of the danger of its breaking. In view of the principles announced in the decision of this court in the Mining Debris Case, in 1884, 9 Sawy. 441, 18 Fed. Rep. 753, and in view of the justly-grounded apprehension of injury to navigation in the case of any wooden dam constructed across the channel of a mountain stream, as in the case now before the court, I am of the opinion that an injunction should issue, as prayed for in the bill.

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UNITED STATES v. GRAVES.

(District Court, N. D. Iowa, E. D. December 17, 1892.)

1. NATIONAL BANKS—REPORTS TO COMPTROLLER—"FALSE ENTRIES."

A "false entry" in a report by a national bank officer or director to the comptroller of the treasury, within the meaning of Rev. St. § 5209, is not merely an incorrect entry made through inadvertence, negligence, or mistake, but is an entry known to the maker to be untrue and incorrect, and by him intentionally entered while so knowing its false and untrue character.

2. SAME.

A national bank is not required to conform the headings of the various accounts on its books to any prescribed names, nor to the names stated in the form of report prescribed by the comptroller; and therefore when a report is called for, if the person making it enters under the headings in the prescribed form a statement of the bank's condition, which is true in respect to the headings in said form, he has fulfilled the demands of the law.

3. SAME—REPORT OF LOANS AND DISCOUNTS.

The entry of "Loans and Discounts" in reports to the comptroller does not guaranty the solvency of the makers of the paper, but is a statement that in truth and fact at the date named in the report the bank actually held and owned "Loans and Discounts" to the aggregate so reported.