ten, is, however, overwhelmingly against this contention. Although something may have been allowed for the other interests alleged to have been previously transferred, it is clear that the award was based principally upon the La Dow licenses and that under the terms of the arbitration the question of good will could not have been considered. The assignment by the complainants to the harrow company of June 17, 1891, covers, apparently, only the La Dow licenses and patents, and there is nothing to show that any argument was made before the arbitrators based upon the other patents owned by the complainants. The amount received is, however, not material. Beyond question the complainants received something for the licenses in question and have kept it to the present time. For the reason, then, that they have accepted and retained the benefits from the contracts and have failed to disaffirm them, after full knowledge of the facts, the complainants are not in a position to recover. It follows that the bill must be dismissed.

LA DOW v. E. BEMENT & SONS.

(Circuit Court, N. D. New York. March 4, 1895.)

No. 6,054.

EQUITY—CROSS BILL—AFFIRMATIVE RELIEF.

Upon the facts as disclosed in the suit of Bement v. La Dow, 66 Fed. 185, *held*, that defendant was entitled, upon a cross bill praying such relief, to have the license to complainant declared valid, and to an accounting for the royalties.

This was a cross suit by Charles La Dow, defendant in the suit of Bement v. La Dow, 66 Fed. 185, against E. Bement & Sons, a corporation, the complainant in that suit.

Henry J. Cookinham, for complainant.
Alden Chester, for defendant.

COXE, District Judge. The defendant in the original suit has filed a cross bill in which he prays that the licenses in question may be declared valid and that the complainants in the original suit may be directed to account for and pay over the royalties due on such licenses. The court sees no reason why the prayer of the cross bill should not be granted, but as the subject was not discussed at the argument any question arising on the cross bill may be reserved for decision until the settlement of the decree.

HAGGIN v. LEWIS et al.

(Circuit Court, D. Montana, S. D. September 21, 1894.)

1. CIRCUIT COURT—JURISDICTION—REMOVAL—FEDERAL QUESTION.
A cause cannot be removed from a state court to a circuit court of the United States on the ground that a federal question is involved, unless that appears by plaintiff's statement of his own claim.
2. MINING CLAIMS—QUIETING TITLE—FEDERAL QUESTION.
In a suit to quiet plaintiff's title to certain placer mining grounds, for which he has a placer patent, the claim of defendant to a portion of the premises by reason of a location made by him, after issue of the patent, on a vein of quartz known to exist there before application for the placer patent, involves an interpretation of the federal statute which excludes known lodes or veins of quartz from patents for placer mining grounds.

Suit by James B. Haggin against William T. Lewis and others.

W. W. Dixon, M. Kirkpatrick, and Wm. Scallon, for plaintiff.
Forbis & Forbis, Ella Knowles, and H. J. Haskell, for defendants.

KNOWLES, District Judge. This is a cause commenced in the district court of the Second judicial district for the state of Montana. The action is one in equity, and has for its purpose the quieting of the title of the plaintiff in and to certain placer mining ground situate in the county of Silver Bow, Mont. The cause was removed to this court from said district court on the petition of several of the defendants on the ground that the determination of the cause involved a ruling upon a federal question. The plaintiff has filed his motion to remand said cause on the ground that this court, as it appears from the record, has no jurisdiction of the cause. The petition for removal set forth as the question involved in the dispute between plaintiff and defendants the construction of the statute of the United States excluding known lodes or veins of quartz from patents for placer mining ground. While there are allegations in the petition for removal which may be treated as legal conclusions, and hence not proper to be considered, still there is a statement of facts in the said petition which, I think, shows that a construction of said statute would necessarily arise in the determination of said suit. It is alleged:

"That subsequent to the issuance of the said patent this defendant made a location upon the said premises for quartz lode purposes, and that he made a location on a vein there known to exist prior to the application for the placer patent under which the plaintiff claims, and that under and by virtue of such location this defendant now claims to be the owner of a portion of the premises described in plaintiff's complaint; that the plaintiff disputes your petitioner's rights thereto, and denies the validity of your petitioner's location of a quartz lode claim upon the said placer claim."

Plaintiff, in his complaint, alleges title in himself, and possession of his placer claim, which it appears from the petition of defendants includes his quartz location. I think, considering the facts stated, a federal question is presented. I do not see how it can be determined without an interpretation of a federal statute. The foundation of defendants' right rests upon such a statute. Was the ground claimed by defendants excluded, by virtue of the provisions of a