

VERBATIM EVIDENCE IN THE IRON MASK-CENTRE STAR LITIGATION.

HAVING been requested by many of our readers throughout the Province to publish in these columns a verbatim report of the evidence in the Iron Mask-Centre Star litigation, Mr. H. F. Evans, our Rossland correspondent, was enabled through the kindness of Mr. J. B. Hastings to carry out our instructions to copy the official report of the proceedings and evidence taken, and which are in consequence enabled to publish in serial form.

(Continuation of Counsel's Argument, from last month's issue.)

The Court—All I have to decided now—I don't know what view they might have taken of any amendments in the pleadings or anything else, if that took place—all I have to decided now is whether your view is right or not. That is, you say the Full Court decided the point. Now, I would like to read that judgment for myself. I keep saying I wonder they never decided the point at issue, and you were answering me—that is, in Mr. Davis' argument—that it had been done, and the two points covered. Now, I would like to look at it, and I don't think you would gain anything by going any further to-night. It is not that I am unwilling to sit. I would like to see Barringer and Adams.

Mr. Davis—I wish to reply to my friend's argument. Shall I reply now?

The Court—Oh, well; go on.

Mr. Davis—Shall I go on now. I thought your Lordship wanted to adjourn.

The Court—I would rather have the thing finished consecutively. I do not understand you, at all.

Mr. Davis—I will only be a moment.

The Court—The main point in the dispute between you just now is about the judgment and the effect of it.

Mr. Davis—Yes; because my learned friend has not argued (although he stated during my argument) that the Full Court had not jurisdiction.

The Court—In a matter of this kind, I would be only too glad to hear all of the argument at this time. I ought to get all the enlightenment I can from counsel.

Mr. Davis—He has not argued that, so I will not refer to it again. All he has said is that the Full Court has considered all the facts and given a judgment on these facts which makes the question re-subjudicated, and your Lordship is not in a position now to make any order permitting work to be done unless there are new facts established. Now, that is his position.

The Court—Yes; that is his position.

Mr. Davis—Now, what I say is this, that what the Full Court decided upon was in view of the fact that your Lordship had a more intimate knowledge of all these facts.

The Court—They don't say so, though.

Mr. Davis—Than any one else; we will leave the matter to you at the trial.

The Court—They ought to have said so.

Mr. Davis—My learned friend argues that, "at the trial"—necessarily means after all of the evidence has gone in. Now, it does not; they left that to your Lordship's discretion.

The Court—I think so, but I want to see it.

Mr. Bodwell—That is one point I intended to refer to and I missed it. As I will have no reply I would like to state it.

The Court—Yes; go on.

Mr. Bodwell—At the time the Full Court gave that judgment, the date of the trial had not been fixed; no order for trial had been made, and I think my friend is going beyond the record when he says that it was definitely decided that your Lordship would try the case, because that was not fixed until some time afterwards.

Mr. Davis—It was fixed, and the Chief Justice told us before the special sitting of the Full Court was called—my learned friend will remember when I recall it to his attention—I applied for a postponement of the trial, on the ground that we had to have this appeal heard first. My learned friend and Mr. Bodwell went before the Chief Justice to request a postponement, and we argued it in his private chamber, and he told us at that time that your Lordship was going to take that trial, and I think my learned friend will remember it now, when I call it to his memory, and that was before the sitting of the Full Court. He said at the same time he would have the sitting of the Full Court called for a certain—

The Court—I happened to know both of them said they would not take it up; that is not conclusive.

Mr. Bodwell—What I would like to say to your Lordship is, I don't recollect the circumstances, but that does not make any difference.

The Court—No.

Mr. Bodwell—What I was going to say was, that the judgment of the Full Court does not go on in that way, but that the Judge at the trial, from the peculiar facilities which he would have at the trial, and from hearing all these people would be in a better position, and it would not matter in that view whether it was your Lordship or anybody else sitting in the case. That is the point.

Mr. Davis—The point I have made, and am making, is simply this: We have a reference by the Full Court; the matter is referred to the Judge at the trial, it does not matter whether the reasons appear or not, they referred it to that Judge. I have a right to urge—I think I am correct in it, too—that the reasons which influenced them in making such an order as they did was because they knew your Lordship was going to take that trial. They knew that at that time. It does not say it is true—it was not necessary that they should say it, but whether it was so or not, that is the effect of the wording.

The Court—I was very anxious to get rid of it; that is, from what I know.

Mr. Davis—Yes, I can easily understand it. It was a very long case.

The Court—No; it is the responsibility.

Mr. Davis—Your Lordship was in a great deal better position than anybody else, because the matter came before your Lordship. Now, as to what they have done—it really is not of very much importance, whether they knew you were going to take the trial or not—but I think that is the reason they left it in the shape they did. Whether they did or not is immaterial.

The Court—What I intend to do is to read the language as it is stated there, and as it is printed, and no other way. The judgment of the Judge is supposed to be—well, open to the general public, and the construction given by the general public, even by illiter-