chiefly, and did not continue his pointed attack on Mr. Elmendorf's testimony, nade so pronouncedly all yesterday. Davis seized on points where he claim ed Bochmer differed from all the other experts produced by the defendants, otably Elmendorf and professor Parks and taking up the Bochmer the ontrasted it with that advanced by the ther experts in the same interest and laiming that the only conclusion that uld be reached upon perusal of all the efendants' testimony was that if Bochmer's view was the correct hen all the defendants' other witnesses were mistaken upon vitally important points. In concluding his address M Davis laid great stress upon the fact that the plaintiffs' three expert wit esses Fowler. Sizer and Atwater had taked their reputations at the first trial by stating emphatically what would be nd if the new work then asked for throughout all the long litigation and vere now found to have been consisten ly correct while the reverse must truth-fully be said of the defendants' experts and their testimony, leaving an irrist-able conclusion to be drawn by the court on the question of reliability of the diferent sets of witnesses.

Mr. Taylor followed for the rest of the day and had not concluded when the court rose this evening. He follow-ed upon the broad lines laid out by Mr. Davis but going into the conflict of evidence, and the analysis of the whole case most minutely, giving chapter and verse for all his statements and incilentally showing that his careful and preparation and presentment of the plaintiffs' case must have entailed an ormous amount of hard steady work. His address was mainly a collection the various points of evidence taken from the hundreds of pages of matter lustrating the points upon which he

aid special stress, as he went along, Mr. Bodwell was in court today for the first time since last Friday. He will mmence a lengthy summing up of the efendants' case when Mr. Taylor ludes tomorrow forenoon.

Beyond a slight protest from Mr. justice Morrison against the reading of long extracts from the evidence the proceedings today were without any marked incident.

Continuing from yesterday Mr. Dav commenced his part of the argument today by referring to Isaacson's evidence at the trial, Isaacson being a shif boss in the employ of defendants when No. 5 level was run. He swore that the Star vein between well defined slate walls turned around to the north at the first turn shown in the plan. Isaacson was given as a practical miner's view, it agreeing with the experts as to the turn of the vein as against its being cut off. The evidence of Fox and Davis, two working miners, to the same Isaacson, was also read by counsel with some caustic comment to the sworn-to existence of walls around the turn to the south walls which the new work has proved did not and could not exist as there was a 28

oot fissure there.

Mr. Bochmer's evidence given last week was then taken up. Mr. Bochmer, said Mr. Davis, clearly differed from Elmendorf and Parks on many materal points as to the course of the Star rein, and as to the course of the black issure at the northern extension of the black fissure. Bochmer agreed that the fissure continued on north, as proved by the new work there, and that the main vein" turns to the west, not where Elmendorf and all the gefendants' experts say it does, but at a point in the black fissure over 120 feet further south. He said the ground had not been opened up to show the course west of the main vein, where as all the efendants' witnesses declared that the vein turned west at point B. and along the workings as shown in the plan. Mr Sochmer's view supports the plaintiffs' ontention in a double way. He agrees to the continuation to the north of vidence of the alleged Star vein turnwest into Silversmith ground at he defendants say it does.

Taking Mr. Bochmer's statement as west of the Star vein where he says, the Star vein must be 200 feet wide to the west, the witness and Elmendorf admitted this without dispute. It was impossible that Mr. Bochmer's "main vein" extending to the west through inexplored country, could by any con ivable means be identified with Elwest turning at point B. If Bochmer is right, Elmendorf is wrong, and when Elmendorf says the two views are reoncilable he shatters his own reputation s a reliable witness. Mr. Bochmer said something entirely new when he found another turning point to the west of the Star vein then the one sworn to to date by all the other defendants' witeses. The chief result is that the court ust find there is no reliable evidence of the continuation west of the Star-vein at the point B, the northern turn-

Bochmer declared frequently that the cological conditions found in und under review could be accountfor in several possible ways and he erely favors or prefers one way above continued counsel the burden of proof here lies on the efendants, but as a matter of while the defendants' witnesses differ the only sure evidence that has been offered to the court, evidence that has been proved to be correct by the new work done, has been the evidence of Fowler, of Sizer and of Atwater plaintiffs." The general evidence of possible geological conditions in past iges, as offered by the defendants was too dim and misty a character upon which to settle an important case like

The plaintiffs offered the court somehing stronger than "pure conjecture the Bochmer type.

The plaintiffs always contended for existence of drag ore along part of black fissure. Mr. Bodwell to date has always denied the existence of drag ore, and has added that drag ore was something that all mining men

know when they see it.
Mr. bodwell—I did not mean hand samples. I mean't drag ore in the mine.

iffs had been ridiculed time and again r not producing samples of drag ore court at the first trial. When a en or more samples are now produc-Bochmer declined to swear whether not the samples were drag ore or If the plaintiffs prove drag ore in e black fissure it is unquestionable idence of a fault, that is that the ck fissure, is a fault fissure and the claintiffs' cut off theory is confirmed on the one hand and the continuity of the Star vein is disproved on the other, hence the importance of drag ore. (Sunsel took up Mr. Bochmer's seven sons for his explanations of the geocal conditions found to exist in the e workings and in them found much and evidence in plaintiffs' favor. ning through this summary of chmer's, counsel referred to contration by other expert evidence on such oints as no signs being found of triation in the workings, the vague pretical suggestions offered to propthers, and the want of any evidence

As to the black fissure being a fault fissure Mr. Davis referred to Mr. El-mendorf's photographs of the new ork in the southern extension, "prewith Mr. Elmendorf's well known skill," and declared that Clork's evience disproved all that Mr. Elmendorf sought to prove. Mr. Clark was an independent witness. He swore that the ere of smooth faced rock with ore attached to it produced to the court last week was a part of the footwall, the mooth surface showing movement. Elmendorf admits he made a mistake

about the extension of a fissure to ...e south. Fowler, Sizer and Atwater aid not make a mistake. That is the effect of the new work. Mr. Bochmer must be taken to further discredit Elmendorf. His, Bochmer's evidence can be read in no other way. through the Silversmith of the Star vein west the defendants were out of court on their own evidence.

As to drag ore in the black fissure ere it cuts off the Star vein and when he latter is thrown away to the north Fowler, Sizer and Atwater swear that the ore found along the direction of the throw, in the flussre, is drag ore. Elmendorf, Parks and White say it is in place. One set of experts against the other. On an equally important oint, the extension or non-extension the south of the black fissure, opinion of the first set of experts has been found correct by the new work, and the second set of experts have admittedly been found to have been wrong. As to drag ore then, the plaintiffs should have the benefit of the doubt under these circumstances, remember ing that the onus of satisfying the court on the points under consideration was upon the defendants.

In concluding his address Mr. sed upon the court the careful con sideration of the effect of the new work.

Mr. justice Morrison—"Of which we have heard so little, now that it has

Mr. Davis continuing, said he based much of his argument upon what was shown by the new work tracing the effeet of it back through the evidence given at the original trial. The new work showed exactly what the plaintiffs told the court would be found if the work were done. The court fully understood what it was hoped would be proved o disproved by the new work. Now that the work was done and the plaintiffs ontention fully demonstrated there was an end of the defendants' contention, as urged along many lines, possible befor the new work was done, but now no onger argueable.

S. S. Taylor, K.C., followed Mr. Davis the plaintiffs' going minutely all the evidence touched generally upon MF Davis He urged that the present hearing was an appeal on the whole case and must be so considered. stated the two contentions, of the plaintiffs' on the one hand and of the defendants on the other and then proceeded to take up the sections of the evidence supporting the plaintiffs' invariable contention from the first up to present time Referring to one of the drifts run off

No. 5 level just to the north of the first

turn, counsel said that according to expert testimony crosscuts in the work-128 were marks, being run out to ascertain the make up of the surrounding country. Practical miners, when in doubt as to he course of the vein, run out cross-uts to test where they were going. Where they knew well what they were following they did not run crosscuts. At point first indicated, the cross showed that the miners did not know the course of the vein, although the defendants' now claim the course of the vein was perfectly clear. Turning to Turning to Sizer's original evidence counsel read extracts touching on what was shown in the workings at the alleged turn in the Star vein and where the witness declared the vein was ended. terminated, cutoff by the black fissure and evidence showing the black fissure extending to the south. The continuation to the north, not being the Star vein on a bent-around course, but the black fis sure only. At the first bend before and during the first trial, only a portion of the workings could be seen owing to the lagging being in place there. Mr. Sizer then explained what would be found to the south if further work were done. Counsel followed the original evidence given by the plaintiffs' witnesses at the first trial showing where the Star vein the different levels came up at right angles to the black fissure, was terminated by a fault fissure, that is by the black fissure so designated—and that a throw of several hundred feet to the north occurred, along the line of which

Mr. justice Morrison objected to coundeliberately and coolly reading long extracts from the evidence. "We have heard it once, will have to read it Reading it now was of no as-

rag ore was found in the vein filling

ways contended for was that the black

Mr. Davis continuing said the plain- ing material of the black fissure, the smooth sides indicating motion, but it was always admitted that at points in the admitted Star vein some black slickensides could be found, but only occasionally, as contrasted with that found along the whole length of the black fissure, the change from the vein to the fissure in the rock being always clearly discernible wherever contact was had. The make up of the black fissure as described by Sizer was dwelt on, the distinguishing points, as contracted with the admitted Star vein, being barren, only ore found being clearly drag ore and not ore in place, the vein filling containing cacite, but not spathic ron or anything that came up from the depths, crushed slates and ten times the amount of black slickensides, as is found in the Star vein.

What Sizer told the chief justice was visible to the eye in the workings when the learned chief justice visited he mine, was dwelt on in passing, and the evidence of expert Atwater was referred to as fully confirming expert Sizer on all points and absolutely without contradiction. The evidence of S. S. Fowler, more particularly upon the geological conditions at the apparent first turn of the Star vein, was referred to at some length as confirming and adding to Sizer's story. Fowler the vein turning was apparent but not real. Fowler was willing to test his opinion by the new work then asked for at the end of the second trial at Nelson. The work since done had proved that nstance.

The occurrances of ore in the 5th level and in the levels above and below around and near the alleged turning point as described by the workmen of the defendants' original evidence, was referred to at length, Mr. Taylor claiming that much of this class of evidence now turned out in the plaintiffs' favor. The meaning of the long barren stretch along No. 5 level where the black fissure is encountered and run along, as the plaintiffs' contend, was gone into very fully, counsel reading voluminous extracts from the evidence and from affidavits made by Byron N. White and Oscar White made in August, 1901. when this litigation first started, showing little or no ore along this stretch Later, at the trial, the defendants' experts say the ore is "practically continous, the contrast being sharp and not explainable under ordinary circumstan

Mr. Harris always believed in the exstence of the fault fissure, the black dissure, but at first he thought the fault was a small one and that the vein would be found nearby, extending on the west on the other side of the fissure. At the trial, however, this last contention was never advanced by the plaintiffs. For months the plaintiffs were unable to obtain a view of the mine workings, until at last the court ordered it. When a view was obtained the facts as alleged now by the plaintiffs were found to

Turning to the meaning of what was discovered by Fowler recently in the "hidden drift," Mr. Taylor said that it was not known that the mass of superncumbent porphyry said by the defendants to overhang the barren stretch and to account for its non-mineralization, did not exist in the position main tained for it, and this being so, the de-fendants' theory on this point was went out of court.

A dissection of Elmendorf's views on drag ore, what drag ore really is, and he fact that Elmendorf found no drag ore in any part of the workings occu-pied about half an hour of the court's

The plaintiffs' experts during the case were obliged to make out what would e found to be the case if new work were done, wholly from observed facts. They risked their reputations on what would be found. The new work was ione and the plaintiffs' experts have been justified in every statement they nade originally and this must have great weight with the court in weighng the value of the respective expert testimony, taking into account the stand taken by the defendants' experts when leave was asked to do the nev work, and their efforts now to "explain" what has been found to exist.

The balance of counsel's address was masterly analysis of other parts of at 5 o'clock the court adjourned for the

Victoria, April 18.—Before the full art today, the ninth day of the hearing of the appeal in Star vs. White, S. . Taylor, K.C., concluded his very able and exhaustive summary and analysis of the evidence in the case and then argued the legal aspect in its bearing

the evidence, giving many authorities governing the mineral claim law formerly in force in B. C. and still in rce so far as this litigation is con-Early in the afternoon Mr. Taylor ncluded and Mr. Bodwell at once commenced his address for the defendants the Ryron N. White Co., The learned ounsel spoke slowly at first, apparently under a certain amount of pressure. He caught up Mr. Taylor's closing sentences said that gentleman had repeatedly misled the court in his allusions as to what the evidence showed, his final ending being a good sample of the rest, and then turned his attention very deliberately to the methods employed by Mr. Davis in his attack on the defendants' expert testimony. Vituperation, abuse, and an absence of all appeal to reason, such as adopted by Mr. Davis did no appeal to him, Mr. Bodwell. Unless forced to he had no desire to follow along this line. In place of the onus being on the defendants to convince the court of the correctness of their contention, the burden of proof was on the plaintiffs to show that the learned chief justice was undoubtedly in error in his judgment. The defendants stood upon his judgment and admittedly it could not easily be thrust aside now. Mr. Bodwell laid the greatest stress upon Mr. Taylor replied that counsel desired to connect up sections of the evidence with the theory supported and size could not point out to the trial judge when in the mine what he desired to the mine workings and said that the size could not point out to the trial judge when in the mine what he desired in court existed there and could not point out to the trial judge when in the mine what he desired in court existed there and could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court existed there are could not point out to the trial judge when in the mine what he desired in court exists and the court exists are could not point out to the trial judge when in the mine what he desired in court exists and the court exists are could not point out to the trial judge when in the mine what he desired in court exists are could not point out to the trial judge when in the mine when the court exists are could not point out to the trial judge when in the mine when the court exists are could not point out to the trial judge when in the court exists are could not point out to the trial judge when in the court exists are could not point out to the trial judge when in the court exists are could not point out to the trial judge when in the court exists are could not point out to the trial judge when in the court exists are coul be readily seen by any one without techslickensided material was the dominat-nical knowledge. After dwelling at con-

siderable length along the lines indicated Mr. Bodwell turned his attention to the mass of evidence and proceeded i review very carefully from the defendants' standpoint, ridiculing the con-clusions arrived at by the plaintiffs' experts and asserting with many references the entirely consistent stand taken by the defendants' witnesses throughout all the many days of examination and consequently on Mr. Sizination and cross examination. Mr. Sizer came in for the giant portion of the er came in for the giant portion of the adverse criticism, but Mr. Fowler and Mr. Atwater were not overlooked. Mr. Davis gave a scornful sniff at one portion of Mr. Bodwell's address and drew down on himself a fair share of the learned counsel's wrath thereby. If Mr. Daviel' it bud. Bodwell did not follow Mr. Davis' "bludgeon" style of attack today he certainused the "rapier" effectively, giving thrust after thrust in his own inimitable fashion. When the court rose a

little after 5 p.m. Mr. Bodwell had not concluded his summary of the evidence. Continuing his address to the full court today on behalf of the plaintiffs, commenced yesterday morning, S. S. Taylor, K.C., gave at length the ore ccurrences in the workings as described by expert Atwater, the chief points being the absence of anything from the depths in the black fissure, the noncontinuity of Star vein, and the difference between the Star vein and the fault or black fissure. Then counsel took up the question of the continuance north of the black fissure as a separate independent fissure, particularly as demonstrated by the new work, and the non ontinuance of the alleged Star vein, or of any vein branching off to the west along the course of the fault fissure. That is the bend to the west of the inverted "S", the described course of the Star vein as maintained by the defend Taking up this last proposition ants. counsel enlarged upon the num cross-cuts,-interrogation marks of the miners in the progress of development, to be found at and along the points where the defendants endeavored prove the turning to the west, pointedly introduced Bochmer's evithe defendants' own witness when that expert declared against the turn of the vein as sworn to by the other experts of the defendants. An elaborate model and numerous photographs, recently taken were referred to as showing the real formation at "B" where the defendants' claim a turn to the west of the Star vein, and plaintiffs continuation on to the north lack fissure, the further continuance of the fissure in this direction being shown by the new work. If the fissure ontinued on in its course to the north, after showing for 12 feet, or if there was no turn to the west of any vein, in either instance the defendants were out of court. Wherever through the No level, the line of the black fissure is followed, the workings had to be timpered owing to the characteristic soft material of the fissure, and once off that line little or no timbering was necessary, a most conclusive proof of black fissure's existence along the black fissure's existence along the line claimed by the plaintiffs. Elmendorf claims a well defined inverted "S" shap-Star vein to the western limit of the adjoining Silversmith claim, the vein breaking to the west, around the "superncumbent mass of porphyry." Whereas the position of this porphyry mass is low known to be entirely different to that first supposel and no reason can now be assigned for the turn of the vein as originally suggested. The working miners were instructed to follow on the vein. Mr. Elmendorf swears the turn to the west could be easily seen at B. Yet the miners passed that point and followed for a distance really the line of the black fissure and then "groped" about, as shown by the numero

find "walls" at any point they were wanted to substantiate his theory. Turning to the plaintiffs' evidence counsel reviewed the evidence of the exerts in favor of the contention that the black fissure continued on in a northerly direction, and what subsequently happened when the new work was done proving that Sizer's original contention had been abundantly proved past all possible contradiction. The chief justice had mistaken Mr. Sizer, when visiting the mine, as to the continuation of a vein from B west. The learned judge was convinced that Mr. Sizer did tell him there was a vein to be seen but the expert explicitly denies this, repudiated the statement in court later on, and epudiates it most emphatically The evidence of Fowler and Atwater confirming fully Mr. Sizer's testimony was then referred to and then turned to the question of apex and the surface showings generally There be clearly a wide difference tween the evidence on where the apex was to be found. The defendants, to suit an altered state of affairs, had through Mr. Bochmer, discovered a fresh apex. They had no difficulty in finding a new apex recently with feet of snow lying on the ground, and the alleged discovery of this new apex throws a shadow of discredit on all this class of the defendants' evidence. The defendants claimed all one vein, one general course and one apex. Covering two or more claims, plaintiffs claim that the "general course" of vein must be confined to one claim at a time. These were questions of law, said counsel, and he at once plunged into a legel discussion showing the difference beween the American and the old British lumbia statutes on the extra lateral ights provisions; the provincial Act of 1891 being referred to. Mr. Taylor's general law argument was limited to the contention that the "general course" of a vein to ascertain extra lateral rights, must be confined that general course on one claim only. If on more than one claim, then there was no limit, and the words "general course" might have a dozen different meanings as the vein twisted and turn-ed all over the country. Unless the course was confined to a single claim, its general course could never be ascertained with any certainty, for as it continued on both ways its "general

cuts, to try and find ore, going on no

vein though Mr. Elmendorf says the

course of the turn is "plainly" vistore with well defined walls. Mr. Elmen-

doorf had demonstrated his ability to

change. After the midday adjournment Mr. Taylor continued his legal argument on the extra lateral rights provisions under the old law. To succeed defendants must prove continuity and identity of Slocan Star vein from east end of Slocan Star claim to west end of Silversmith claim, and the burden of proof of this was wholly on the defendants. That is, they must satisfy the court beyond reasonable doubt that all the condition contemplated by the statute exist, fore they acquire the right to go into their neighbor's ground following their vein there. Authorities were quoted to sustain counsel's legal contention, and at 2.30 Mr. Taylor took his seat. Mr. Bodwell then commenced his ad-

dress to the court for the defendants, Byron N. White et al. He commenced by attacking Mr. Taylor's closing se tence which he said was misleading and wrong in fact and was a sample of what Then turning to Mr. Davis' presenta tion. Mr. Bodwell said it was not a difficult matter for a counsel of Mr. known ability to quote disjointed sections of the evidence and utterly lead the court. Outside of this Davis' address consisted of carping criticism, a campaign of suggestion and in-uendo. Personally he, Mr. Bodwell, did not approve of this line of argument and he would not follow it. It was urged that the burden of proof lay upon the defendants, but the fact was the defendants had the judgment of the learned chief justice in their favor, a fact they had heard but little of in the argument so far, and it was for the plaintiffs to show that the chief justice was clearly The plaintiffs said, when ask ing for the new work, they undertook to convince the court that this new work would clear up all doubts in the matter; if it did not, then they, the plaintiffs, would depart and be no more heard. The plaintiffs could not have been said to have cleared up a particle of what was not known before by the new work. Nothing has been gained by he new work. Whether or not the plack fissure extends north or south or north and south, or whether it does not, does not affect the matter under review: When the chief justice visited the work-ing accompanied by Elmendorf and er, each side had its opportunity convince the learned judge of the corectness of one or other of the two heories. Then again Mr. Powler and Sear White accompanied the shief jusice on a second visit. Mr. Elmendorf's suggested hypnotic influence, if it exsted on the first instance, was not present on the second occasion. Was it to be believed that a man of the chief justice's character was so easily in-fluenced that with Mr. Sizer and Mr. Fowler at hand he could be coaxed away from what he actually saw by Mr. Elmenderf? What is not possible for any member of the court, without techical training, to see, is what could not be seen on the ground. It was all very well for Mr. Davis to abuse Mr. Elime dorf, but the plaintiffs had every opertunity to prove their case to chief justice that Mr. Elmendorf was wrong and that Mr. Sizer was right, and Mr. Sizer, when cuallenged by the learned judge, signally failed to point out what he said in court existed, or to show where Mr. Elmendorf was wrong in he had told the court dur trial. Mr. Sizer had suggested that the first original new work would show cer-tain things. He, later disputed this, and he was contradicted point blank on this point by the chief justice Counsel read statements from Sizer's

estimony invariably swearing that the sure, terminated, as one wall of a room terminates another. That is what Mr. Sizer thought he saw, whereas. it is shown clearly that the Star vein, all in ore turning around to the north, is see he ore lying against the wall and continuing along the so called black fis-sure for many feet. That is so unless every one of the defendants' witnesses can be described as wilful perjurers. That is what the chief justice saw; hat is what the what he says in his judgment he saw Mr. Sizer went to the point with the chief justice and falled to convince his lordship to any other conclusion than the turn and continued on to the north. that it was not cut off as Mr. Sizer de-clared it was. Other points, declared to exists by Mr. Sizer, he failed to show o the chief justice when called upon to o so in the mine workings.

Whatever Mr. Elmendorf swore existed, he was able to show to the learned udge on the visit of actual inspection. Mr. Sizer could draw pretty pictures court of what he said could be seen in the workings but he falled to point out the alleged formation to the chief justice. Further Mr. Sizer admittedly made mistakes at the first trial by declaring what would be found to exist behind works then hidden, but which were later overed by blasting. That is waat Mr. Sizer thought he saw, he never saw, ecause it never existed, as was later shown. He was, for some reason unable to understandingly see the actual onditions in the mine He found ore where no one else could and could not find it where everyone else did.

Counsel being challenged as to At-water's testimony retorted that per-sonally he laid no great stress on the evidence of an expert who could not tell the difference between calcite and porphyry, but some of his evidence was There was absolute contradiction originally at the trial as to whether or not there was ore in pit 19 at the surface. Sizer said there was no ore. On the court inspection Sizer is shown the ore in place, as is the court. Later. in court. Sizer is utterly unable to explain the finding of ore at this point, which he originally denied. Why? Because it put his then advanced theory out of court.

Counsel objected to Mr. Davis' sareastic laugh." "I am forced to retaliate n my comment of witnesses." Mr. justice Irving-Speak of the witnesses just as you please.

Mr. justice Morrison—It (the laugh plained of) has not reached the

Mr. Bodwell continuing, said the chief tice had no doubt whatever that Mr.

Ja er originally said the Silversmith ve ... scopped at a certain point, it was to prove whether Mr. Sizer was right on this point that new work was ordered here. The new work was done, the first new work and the vein was shown continuing on. Then Mr. Sizer denied his former statement and is contradice-ted by the chief justice in his lordship's notes and in his judgment. Great cred-it is given Mr. Sizer for guessing right-ly that a fissure could be found going on to the south at the first turn of the Star vein it was a trace of framework. Star vein. It was a case of ingenuity born of despair. There was nothing to indicate a crack or a crevice at the point; but Mr. Sizer took the gambler's chance; he had nothing to lose. If no fissure was found. He found, by new work, not what he said would be found, but what the defendants said might be found, a branch or spur of the star vein breaking off in the most like-

lized. Mr. Sizer must find the issure going south or his case is lost, whereas he can not find from any admittedly correct geological reasoning, any black fissure at all. The conditions existing are all entirely against the exstence of a fault fissure extending as Mr. Sizer says it does. His theory is both ridiculous and impossible actual conditions as "we see it and as every unbiased person must see it's shows that the fissure claimed by the plaintiffs was made at the same time the Star vein was, and was mineralized from it. No other conclusion is pos-In the upper workings above level No. , at the first turn, where Mr. wore that the vein was terminated by the black fissure, subsequent work, done after the first trial, showed the ore bend-

ly direction, mineralized or non-mine

erred to by the chief justice as the facts he observed, even if Mr. Sizer did not. Mr. Sizer's black fissure theory fizzles out at this point. Where Mr. Sizer thought the black fissure existed the footwall of the fissure, four feet of orphyry was disclosed.

The "dominating characteristic" of

ng around the turn, and this fact is re-

the so-called black fissure, was ridicul-ed. The blackest kind of vein filling yet found is shown in the Silversmith ver away to the west.

The explanation of the mistakes made by Sizer, Fowler and Atwater were clearly due to lack of proper inspection of the mine workings, they having taken only a few days, comparatively speaking, to qualify themselves for speaking correctly, and only examined parts of the mine, whereas, Elmendorf, Bochmer and the rest of the defendants' witnesses, spent days and days in the mos careful observation of all that could be learned from the mine workings. The defendants claim that all the wo nust be considered in arriving at the general conclusion, and any exceptional onditions, found at any one point on ome one level can not be taken to overthrow the general conclusions to be reached as just stated. If the vein turned, as the defendants' claim, a fracture might well be looked for at the turning point. Such a fracture is found by the new work and the plaintiffs im-

mediately declare it is an independent fissure and a fault fissure.

There is not a single condition relied upon by the plaintiffs to prove a fault fissure, that can not also be found in other parts of the levels except possibly the rather long barren stretch and the absence of spathic iron. There are plenty of barren spots all through the workings and spathic iron is always found with the ore. The only thing the plaintiffs can not get away from is the turning of the ore in place. The only way, the only possible way, the plain-tiffs can explain the ore in place is to designate it. "drag ore" and leave it at that, or to give a point blank denial of the existence of the ore. The chief jus-tice had ample proof offered him as to whether the ore seen is drag ore or ore in place and he finds that it is ore in place.

The defendants have never changed their original contention, neither have the experts called by the defendants changed their opinions during the case Mr. Elmendorf had never declared favor or not, of a fissure going on to the south. He said he saw no indication of a fissure existing. As to inconsishat the vein, all in ore, bent around tency, Mr. Bodwell referred to the plaintiffs' first idea of the vein exten ing right along across the porphyry nass until Mr. Sizer came to the resci Star vein butting into it, ceasing and booming out for 70 feet. The chief jus-tice was clear that the plaintiffs strove ingenuously to do away with condition hey could not account for

With confidence, Mr. Bodwell submit. ed the proposition that the porphyry ound throughout the mine and its re ation to the Star vein was one condi except by accepting the defendants theory. The porphyry was there in place before the vein was mineralized and this is shown by finding the miner alization in the porjhyry being found cut by the Star vein and by the Silversmith vetn in the west. This is proof onclusive that before the vein mineralized the porphyry was where it now is and in a cooled state. Mr how is, and in a cooled state. Mr. Fowler offered an ingenuous explanation, but promptly withdrew it when he found it would hurt the general view of the plaintiffs' case, and gets into trouble in so attempting to withdraw and give some other explanation. If the porphyry mass was where it is now found before the Star vein was mineralized, it is conclusive, or nearly so, proof that the Star vein bent around the porphyry as claimed by the defen-There was no contradiction between

experts Elmendorf and Bochmer as to the Star vein at the second turn. The difficulty arose from the inability of Mr. Davis and Mr. Taylor to appreciate and understand what Mr. Bochmer meant by what he actually said. The vein admittedly lies very flat at the turn and the miners in working followed the vein material around the turn, the main fissure turns further but it is all vein at this point. workings in the upper levels, all of which must be considered, clearly show the true course of the vein turning,

though in the No. 5 level, the turning is not so apparent. Elmendorf swears that he has seen the ore turning in the upper levels, Fowler, with characteristic recklessness, although he had never seen the upper levels at this point, says a fault or slip has occurred, and he says this just to account for the ore, and to square his position as to it.

The court then adjourned for the day, it being after 5 o'clock.

(Special Corresp

Victoria, April, 19.—E. V. Bodwell, I.C., occupied the centre of the stage in the Star vs. White hearing before the full court all this, the tenth day, and had not finished his address on behalf of the defendants, the B. N. White Co., when the court adjourned this afternoon

Mr. Bodwell unquestionably heavily today on at least two main aspects of the case; the controvery, as shown in the evidence, between the chief justice, and expert Sizer for the plain-tiffs, resulting in the judge turning away from the experts summary, he, the expert, failing to show in the workings when the two experts and the judge visited them, what he said in judge visited them, what he said in court could plainly be seen there. This was contrasted with what Elmendorf for the defendants, did demonstrate to the judge at the mine workings. The The fact second point was the undisputed fact that the plaintiffs, throughout all their presentation of the case kept their observations practically confined to the lower level, and could not be coaxed to lay before the court the conditions as hown on the surface and on the upper nine workings, a review of which were essentially necessary to grasp properly the whole situation. In addition Mr. lodwell critically analysed a large portion of the evidence touching on the important parts of all the workings and arguing that the new work had made nothing clear that was not known and clear before the work was done. Continuing his address to the court on behalf of the defendants, commenced

vesterday, Mr. Bodwell cleared up son yesteruay, Mr. Bodwell cleared up some minor matters in connection with the position of the superincumbent mass of porphyry as shown by some of the stopes in the southern turn. Here, in the upper levels at one point where a small corner of ore had been left and where Mr. Sizer declared the wall of the black fissure was seen, the footwall being seen, Oscar White swore that after the first trial he caused this black fissure to be drilled into, and in place of the black fissure, porphyry was encountered as far as drilled in-four feet. The attention of the chief justice was particu-larly called to this instance of Mr. Sizlarly called to this instance of Mr. Sizer's mistaken views on the existence of the black fissure, when as a matter of fact, four feet of porphyry was bored into, the porphyry continuing apparently across the whole face of the drift. Sizer had controverted all this evidence and so Mr. Bodwell, pointer in hand, went over numerous sketches and plans arrayed on the man stead and read all arrayed on the map steamd and read all the conflicting testimony bearing on the point, and argued in favor of its prov-ing Mr. Sizer clearly wrong in his con-tention. Mr. Elmendorf had stated at the first trial that if the little corner of ore seen standing in this stope were taken down and the work continued the ore would be found continuing on. This work was done and the ore found exact-ly as Mr. Elmendorf said it would be. Further, Elmendorf's evidence on this point was exactly in line with Mr. Boohmer's testimony given to the full court. The crack or crevice shown at this point in the turn is a branch fisure from the main Slocan Star vein which continues on its way north. All the new work done here merely shows the existence of this branch fiscure. the existence of this branch fissure something never denied by the defendants, but shows no continuation of the black fissure as claimed by the plain-tiffs. "A fissure," said counsel, "extends just as far as you can see it. All the experts agree as to this; it may extend further even that shown or it may pinch out a few feet further on, in any event it is merely a branch fissure from the main fissure, the former is just

Coming to the surface showing, Mr. found in the new work to odwell said that Sizer. Elmendorf and the chief justice visited the point where an 8 foot excavation shows the Star ein turning around to the west. got into this excavation and walked around the curve or bend "on the vein," when the chief justice asked Size what vein this was he, Sizer, said it must be the Silversmith vein. The chief justice then asked Sizer to show the surface indications of the black fissure but Sizer was unable to point out evidences of his contention of what occurred underground. Counsel laid very great stress on this condition of affairs in the history of the litigation and referred to many extracts from the evidence to sub stantiate every statement made. Mr Bodwell read the judgment of the chie justice on this point wherein the learn-d judge declares Sizer admitted the vein turning around the bend and con-

tinuing west along the surface, claimed that the outcrop of the black fissure was to be found to the east but was utterly unable to substantiate his view or to unable to substantiate his view of to point to any evidence of outerop of the black fissure. The conditions on the surface, continued counsel, clearly dis-proving the plaintiffs' contention that faulting occurred, that the black fissure is a fault fissure, and that at the south turn the vein to the west of the black fissure has been thrown 700 feet to the north. There is absolutely no the surface, the apex of the Star vein can be traced readily through the many surface pits referred to in the evidence, extending from the east end of the Slocan Star claim to the west end of the Silversmith claim. Mr. Bodwell devoted some little time to discussing nomer, a name originated to assist in describing a geological condition of affairs that could not be found to exist. The plaintiffs must prove a dislocation of the Star vein and this they have not done, nor can they do so by any evi-dence adduced in this action. The evidence of Bruce White was read

to show that no other vein has been found along the surface extending to the north and attention was directed to the fact that the plaintiffs had not offered any evidence on this point though they declare the black fissure is found on level 5 extending to the north as shown up in the new work. Elmendorf's analysis of what is

shown by the surface showing was gone into very fully, Mr. Bodwell directing the court's attention sarcastically to the fact that the plaintiffs had said practically nothing about the surface show-ings in the presentation of their case to the court, either to the chief justice, or to the full court. While Mr. Bodwell read long extracts from the evidence, Mr. Lennie stationed himself at the plan and traced with a pointer the points touched upon by Mr. Bodwell, and in this way rapid progress was made. If a fault existed then the thou is from the Star vein to the Silve: 31 vein, a distance of 700 feet. The de-fendants did not admit a fault but if a fault does exist there is no doub the plaintiffs' evidence that the Sil ervein is the continuation westward of the Slocan Star vein; Size and Fowler were equally clear on this point.
All conditions in the two veins as the yn up are identical. Admitting this to be so that is, admitting a throw, the west end of the Slocan Star vein filling on to the eastern end of the Silversm vein, then the plaintiffs are out of court on their own showing and coun-sel gave a list of cases fitting into what the evidence shows in this case, giving the defendants extra lateral rights un-der existing contditions. Mr. Bodwell argued the faulting theory on the ex-press condition that in doing so he did not agree to it, but took it up on the plaintiffs' own presentation of the case. The apex was admittedly uninterrupted on the surface, and that being so, all that need be traced underground was the identity of the vein. That where the otherwise trespasser wants to go fol-lows down from his apex line on the surface. The defendants have always protested against all the attention being given to what is shown on the lower or 5th level, the plaintiffs have carefully kept away from most of the upper work-ings and altogether away from the sur-face. If there is anything in plaintiffs contention at all it would only show displacement on the lower level, leaving the apex line absolutely undisturbed, and leaving the defendants' extra lateral rights intact in consequence. The policy of the plaintiffs on this point was an attempt to play with the intelligence of the court, but it destroyed the plaintiffs' own contention.

After the midday adjournment Mr. Bodwell proceeded with comparisons of the identity of the Slocan Star and the Silversmith vein as made in the evidence by both sets of mining experts and by practical miners.

Counsel then dealt with the conditions at the second bend of the Star vein where it is shown going on to the west in Silversmith grounds. The minars knew they were following on the west in Silversmith grounds. The min-ers knew they were following on the wein, the crosscuts done there were for the purpose of obtaining evidence for this trial not for the purpose as sug-gested by Mr. Taylor, of finding out where the vein was. The evidence on he new work going on to the north the new work going on to the north, shows only a crevice narrowing down and probably dying out a little further down. The new work here in no way shows the continuation of what the plaintiffs call the black fissure, and the defendants' the main Star vein. Coursel denied at length all the inuendoes thrown out by plaintiffs' counsel all through the case, that they, the defendants had lagged un any sections of the dants, had lagged up any sections of the workings to conceal what might be ound there; on the contrary the defendants had sought to expose on the workings all the disputed points so that a fair inspection could be had, both by the chief justice and by all the experts. When Mr. Sizer went through he was when Mr. Sizer we that through he was accompanied by a miner, instructed to give him all necessary assistance in finding anything he wanted and when the chief justice was at the mine both Sizer and Elimendorf were present, and where it might be expected; the latter, the main fissure clearly on its course to the north and then to its turn to the both did so.

As to Fowler's testimonw of what is that the ore there was ore in place and under no conceivable circumstances could be described as drag ore as stated by Mr. Fowler. As to the bent up ends of the slates where the plaintiffs' claim cutoff of Star vein is seen, the slates bending or turning up as the so called black fissure is met, the whole evidence showed that while this is so, further inspection shows just the reverse position of the slates a little further on, the slates really going along in a waving formation up here, down there, and so on. This said Mr. Bodwell was a fair instance of the incomplete statements made by Sizer, just a portion of the truth given to fit in with the expert's contention, a contention which vanishes when the whole truth is brought out. This was seen and noted by the chief

justice on the occasion of his visit to the mine. Fowler's description of drag ore can only hold if a fault is allowed; it does not prove a fault; it is evidence of mo-tion within the vein, and on the contrary the experts clearly swear to the ore in the first turn being clearly ore in place having all the necessary indications and conditions. All that is op-posed to this is the flat statement of Fowler and Sizer that they say this is drag ore. The plaintiffs first denied ore continuing round the turn at the first bending point; they declared emphatically that the ore was ended here by the black fissure, cutoff sharply as one wallof a room sharply cuts off or terminates another wall. When brought face to face by the ore being shown ac-tually turning at the bend, the plaintiffs fell back on the drag ore theory as the only possible means out of an impossible condition, now the defendants were equally in a position to prove ants were equally in a position to prove that it was ore in place, the vein itself being seen actually bending around the turn and disposing of the cutoff theory most effectually. The comment of the chief justice on this section of the evi-

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