

The Sittings of the Supreme Court

WEDNESDAY'S SITTINGS.

After spending an hour listening to several chambers applications of minor importance which were disposed of without unnecessary delay and the granting of certificates of naturalization to seven foreigners, the supreme court got down to the business of the day, Chief Justice Hunter taking up the case of the Centre Star and W. Eagle mines against the city and corporation of Rossland over interim rights to certain portions of the water of Stoney creek.

The case was an appeal by the War Eagle company against a decision of John Kirkup, the gold commissioner, rendered last May. At that hearing the appellants made an application for an interim record entitling them to divert a portion of the water of Stoney creek, which the city allows to run to waste, and to use the same for milling and concentrating purposes. The mining company admitted for the purpose of the application that the city owned all the waters of the stream at their point of diversion, and were entitled to all such water, if they required it, but contended that they had no right to prevent people from utilizing water which was running to waste below the city dam. It was shown that the city used about 21 inches while some 800 inches flowed in the stream sometimes. The city based its opposition on the act of incorporation of the Rossland Water & Light Company, passed in 1890, entitling the water company to divert all the waters of Stoney creek above the elevation of 3921 feet above the level of the sea, and an agreement made between that company and the city to purchase its water rights.

The gold commissioner held that, although the point of diversion from which the city takes its water supply is situated 3700 feet above the sea, the owners of all the water in the stream down to 3921 feet above the sea, and that he had, therefore, no jurisdiction to deal with the surplus water in question.

On the appeal, A. C. Galt appeared for the appellants, and J. L. G. Abbott for the city of Rossland and for the Rossland Water & Light Company. On conclusion of the arguments, which lasted for some hours, His Lordship, Chief Justice Hunter, decided that under the terms of the water company's act of incorporation, when read in conjunction with the Water Classes Consolidation Act, the city holds a paramount, but not exclusive right to the waters in question; and hence, the gold commissioner does possess jurisdiction to grant an interim record of the surplus water. The matter was then referred back to the gold commissioner to hear and adjudicate accordingly.

In the case of the Centre Star Mining Co. vs. the City of Rossland and the Rossland Water & Light Co., for the same purposes as the appeal of the War Eagle Company, a similar decision was rendered. The parties in the suit were represented by the same counsel.

LE ROI NO. 2 VS. LE ROI.

At the afternoon session of the supreme court the suit of the day, that of the Le Roi No. 2 Mining Company, Ltd., vs. the Le Roi Mine, Ltd., and the Northport Smelting & Refining Co., over ore alleged to have been taken from the Le Roi No. 2 mine, was taken up. The Le Roi No. 2 claimed to have failed to receive its true values from the smelter owing to the fact that hand samples were taken instead of running the ore through the usual automatic sampling process, came up for hearing. The Le Roi No. 2 was represented by J. A. Macdonald and the Le Roi and the smelter by C. R. Hamilton.

It was claimed by the appellants that early last May several lots of ore were shipped to the Northport smelter for reduction. The ore lay in the cars at the Northport yards for some days, until, the railway company needing the cars, took them up to the Highline and while out the consent of a representative of the company at Northport, and while that individual was asleep dumped a portion of the ore, taking nothing but a few hand samples for the purpose of running them through the automatic sampler, instead of running the whole through the process as is the usual case. The samples thus taken, instead of running up to the usual standard for the month of \$15.05 a ton, ran little better than \$7, and it was for the purpose of receiving the difference, amounting to somewhere in the neighborhood of \$4000, that the action was taken.

The Le Roi mine and the Northport smelter, represented by C. R. Hamilton, claimed that the sampling of the ore was correctly done under the circumstances—the ore crusher in the automatic sampler being broken or out of order at the time—and that the sampling was done with the full consent of the smelter representative of the Le Roi No. 2, who was in the yards at the time. The Le Roi company claimed that there was no contract that stipulated a certain manner of sampling ore and denied the allegations made by the Le Roi No. 2 company.

The first witness called by the appellants was Mr. Bernard Macdonald, the Le Roi No. 2. He was first asked whether the ore was sampled in strict accordance with the contract between the two companies. He contended that the ore in question was not, and then read the contract existing between the two companies, a contract that he had drawn up when manager of the three companies, the Le Roi, the Le Roi No. 2 and the Northport Smelter Co. He described the sampling and the smelting process in vogue at Northport and how the contract between the three companies was first made in London. The sampling process at Northport, he declared, was the same in practically every smelter that he had been in.

He was asked and explained the appointment of S. J. Luce as the man employed at the smelter by the Le Roi No. 2 to look after the mine's interests. His duties were also explained, subject to the objections of the opposing counsel. He told of how the ore had been taken to the roaster at night while the mine's representative was in bed, and without either the consent of the local mine officials or of Luce; of the hand-

but rarely the true values of the ore thus sampled, and of various letters from Luce, Sontagh and others relative to the matter. Mr. Macdonald also gave evidence on the values of various stopes in the Le Roi No. 2, and especially of the stope in which the ore in question was shipped from.

On being cross-examined by C. R. Hamilton, Mr. Macdonald admitted that the Le Roi No. 2 had no agreement as to the method of sampling the ore, but declared that it had always been done by the automatic process and that it was understood that that process was the one to be used in the matter of Le Roi No. 2 ores. The position of Luce was gone into at some length, C. R. Hamilton trying to show that Luce had the authority as representative of the company to authorize any kind of sampling. Mr. Macdonald claimed that Luce was nothing but an employee of the company with a regular line of duties, that he was invested with no powers, and that he was always subject to the orders of W. Thompson, the superintendent of the company. Everything relating to the matter, including the sampling of ores, was entrusted directly to Mr. Thompson. At this point a letter from Luce to Mr. Macdonald was introduced as evidence. The letter was written the day after the ore in question had been sent up to the yards and into the roasters and explained several matters. Other matters relative to the case were dealt with at some length, and the case was adjourned until today at 10:30, when the hearing will be resumed.

OTHER CASES.

The other cases to come up before Chief Justice Hunter were as follows: Royal Bank of Canada vs. Mary Louise Barrett, over a date for foreclosure of a mortgage. The date was extended two months. Mellor Bros. vs. Rossland Real Estate & Investment company, application to sign final judgment in a claim adjourned. In the case of John Macdonald vs. trustees of the Baptist church, Rossland, application for order of discovery was issued. The defendants in that case were given 21 days to answer and those in the case of Bank of Montreal vs. Boundary Creek Mining & Milling company an order was issued referring amount to be paid to registrar, defendant Jacobs being left out without costs.

Seven certificates of naturalization were granted, there being no objections.

THURSDAY'S SITTINGS.

"As this is a case that will have to be decided on facts more than on points of law, and as the facts are such that any two or three judges would more than likely differ on the points at issue, I think that the only proper method for all parties concerned is to hold a meeting and settle the matter amicably among themselves; in short, if nothing else can be done, to arbitrate the differences. I think the matter is really a question that calls for business arbitration. There are several points that could be dealt with at length, but what counts in this case are facts, not points of law. In regard to the contract, I think that when it was drawn up the automatic sampling process was the one intended to be used in the sampling of the Le Roi No. 2 ores. However, I am not prepared to go further into the matter at the present moment, but I think that the best way is to settle the case outside of court."

The above represents the opinion of His Lordship Chief Justice Hunter, delivered before those interested in the suit of the Le Roi No. 2 against the Le Roi mine and the Northport Smelting & Refining company, over certain ores sent to the smelter, by the plaintiff company in the latter part of last May. The remarks were passed by Chief Justice Hunter a few minutes after C. R. Hamilton, representing the defendant company, had risen and asked that the case be dismissed on the grounds that the Le Roi Mining company, having signed no contract in the matter of treating ores with the plaintiff company, was not responsible and the suit, J. A. Macdonald, for the plaintiff company, made a few remarks objecting to the action against either the Le Roi Mining company being dismissed or the action against the smelter company. A motion was then made by C. R. Hamilton to dismiss the action against the Northport Refining & Smelting company, J. A. Macdonald entering an objection.

It was at this point that the chief justice spoke on the matter as outlined above. He asked the representatives of the companies whether some arrangement could not be arrived at which would settle the affair amicably. J. A. Macdonald, replying for the Le Roi No. 2, declared that his company stood ready to accept anything in the way of a fair settlement and should the point at issue would be let to arbitration if no other way was found, providing the other company agreed to the proposition. The Le Roi company's representative had, however, nothing to say on the matter, outside of summing up the evidence so far adduced at the trial of the case. The case was then adjourned until 10:30 this morning when the taking of evidence will be resumed unless a settlement is arrived at before court opens.

The proceedings during the day were of a very interesting character, two important witnesses occupying the stand, namely, William Thompson, superintendent of the Le Roi No. 2, and S. J. Luce, smelter representative of the Le Roi No. 2 at Northport. All the morning was occupied in taking the testimony of Luce and in the afternoon session in taking that of W. Thompson. The morning session developed several points of more or less interest,

among them being that, according to Luce, he was the mine representative at Northport and had the power of issuing permission for the disposal of ore under certain circumstances. That he had issued such permission to the smelter he admitted, stating that he had received instructions to that effect from William Thompson, and he had communicated his instructions to the superintendent of the smelter. The permission given the smelter was more to accommodate Superintendent Sontagh than for any other purpose, and was only given with the understanding that if the smelter needed any of the Le Roi No. 2 ore for fluxing purposes a portion at least of the ore so used should be sent through the automatic sampler and the usual custom followed out.

Luce, upon being questioned in regard to the hand-sampling of ores and as to his status at Northport, declared that he was empowered to give permission to the smelter to sample ore only when absolutely necessary, and then only certain portions, some portions being reserved for sampling purposes. He spoke of his duties at some length and explained that all his instructions relative to his work at Northport were received through W. Thompson and that he was responsible to him. He explained at some length the matter of finding the various lots complained of in the bunkers at the highline and the portions of them already in the roasters, and declared that they had been sent to that portion of the smelter without his consent or knowledge. When he discovered the matter he declared that all of the ore had already been dumped, a point that was denied by Mr. Gray, the day foreman at the smelter.

On being cross-examined by C. R. Hamilton, Luce stated that he could give permission as to the disposal of ore and that Bernard Macdonald must have been the person when he said that he had never heard of No. 2 ore being sent to the highline at night before, certainly not while he was acting as representative of the Le Roi No. 2. Some ore from the mine had been sent to the highline during his regime at the smelter as foreman, but that was a long time ago. He admitted that he was authorized to allow hand sampling under certain circumstances, and that he was given such authority before the ore in dispute was shipped to the smelter. This authority, however, was only given as a matter of accommodation to the smelter, as hand-sampling never was as satisfactory as the automatic process. To his knowledge the hand-sampling had only been done at rare intervals and only on this occasion with Le Roi No. 2 ores.

On being cross-examined on the matter of ore taken to the highline at night and while he was asleep, he declared that it was without his knowledge. However, as the crusher in the automatic sampler was broken, and as he had discovered the matter until all the ore in the three lots in dispute were in the bunkers and a portion of it in the roasters, he allowed the matter to rest, contenting himself with telephoning to W. Thompson and informing the latter that the ore had been irregularly disposed of. He also complained to Sontagh, although the latter two days later declared that the matter was new to him. He was shown some of the hand samples taken from the ore line and was asked if he did not think that a good sample was obtained. He said that he thought so at the time, but was later informed by Mr. Thompson that the fines from which the samples were taken were of a very much lower grade than the coarse, which composed the greater part of the shipment.

Several letters passing between Luce and W. Thompson and Sontagh, and also a letter from W. Thompson asking for particulars as to the disposal of the lots and forwarding instructions that no further hand sampling would be allowed. Mr. Thompson visited Northport the next day and had several conversations with Sontagh and Gray on the matter. Several questions were asked concerning the matter and the conditions surrounding the highline. He declared that he would hardly like to dispute Mr. Gray's statement that nearly all of the ore in dispute was in the bunkers at the time he arrived on the scene. He asked Mr. Gray in regard to the matter and was told that the latter thought that lots 295, 296 and 297 had been sent to the highline, but later this was modified, Gray declaring that portions of lot 292 and 293 taking the place of lot 295. The chief justice asked whether he had to be consulted when ore was taken to the highline. He declared that he had not. Several other questions were asked concerning principally about his power around the smelter. He declared that the permission given the smelter people regarding Le Roi No. 2 ore did not extend to the roaster high line, but only to the bunkers and high lines.

In the afternoon W. Thompson, superintendent of the Le Roi No. 2, took the stand, occupying it until nearly 5 o'clock in the evening. He spoke of his duties and of his visits to the Northport smelter and the purposes of such visits. He detailed at length the way in which he was detailed to the latter's office at Northport, in which the latter drew his attention to the fact that the Le Roi ore then being treated was running very low in copper and the contract then in vogue with the No. 2 company worked a hardship on the smelter in a way. At that time the smelter had given the Le Roi No. 2 company a portion of the No. 2 ore for fluxing purposes. He issued instructions to Luce to allow small portions of the ore to be used as the smelter desired. This concession was given as a favor to Sontagh, who declared at the time that he would see that the Le Roi No. 2 company was satisfied by the transaction. A portion of this ore would be let go by hand sampling and the balance through the regular automatic sampling process. He was telephoned by Luce on May 28th last, the latter declaring that a portion of the ore sent to the smelter had been sent to the highline at night and dumped and that portions of it were even then on the roasters. The next day he visited Northport and found the Crown crusher with

the automatic sampling apparatus attached broken. After being at the smelter a few minutes he went down to the cars on the side tracks in the smelter yard. These cars were ordered by him to be sent to the high lines, his reason being to relieve the congestion then prevailing in the railroad yards and also as an accommodation to the railroad superintendent, who declared that the road needed the cars for the use of the mines at Rossland. He wished to consult with Luce, the smelter representative of the Le Roi No. 2 company, but as he failed to find Luce at any place around the yards, and as he did not think it part of his duties to hunt up Luce, as the place of the latter was supposed to be around the yards of the smelter, he sent the ore to the high lines without consulting the smelter man. He thought very little of the matter at the time, having been given permission by Luce to dispose of the ore as needed by the smelter under certain circumstances. He neglected to speak of the matter at the time to Luce, for the reason that he failed to come across that gentleman when about the yards while he was on duty. Questioned as to when the permission was given by Luce, the witness said that he had received such permission from Luce while talking to the latter shortly after a second breakdown of the crusher connected with the automatic sampler had occurred. The permission was not given to prevent the freezing over of the furnaces; at least, not as far as the witness was aware of. There had always been enough copper in the Le Roi ores to make a good matte, so that the assertion of Luce was not correct under the circumstances. During the six months previous and after the No. 2 ore had been sent through the high lines, the Le Roi ore had always gone, or rather averaged, 1.3-4 per cent copper. It had never gone below 1.4-10 per cent copper as long as he was foreman of superintendent or the company.

The cross-examination was conducted by J. A. Macdonald in a manner that made Watson wince for the time being. He admitted that he was a carpenter and that on the strike being declared he had been given the position of foreman. As a foreman he was asked if he knew the first principles of metallurgy, assaying, chemistry or other matters that are supposed to be connected with the successful operation of a smelter. He knew the principles of metallurgy, having studied it from practical experience, but was unprepared to give any demonstrations of his knowledge in that direction. As a mining man, having been a carpenter, he was requested to state how he knew and how he got his copper values mentioned in previous testimony. He replied by stating that he relied upon the figures and reports supplied him from day to day. Of copper values, he hardly wished to pose as an expert, contenting himself by stating that he relied upon the judgment of Mr. Sontagh in that direction. He was asked how he managed to carry on smelting operations and the working out of the problems surrounding the charges of a smelter, especially when a slight mistake on his part might do considerable damage to the furnaces. The uniformity of ores, he said, was what he relied upon mostly, the ore during his regime at the smelter having varied little as far as he was aware. Half of one per cent was sufficient, and that with about 88 per cent of silica, he was fully able to carry on the operations of the plant.

The permission granted him by Luce was then touched upon at some length. J. A. Macdonald, the attorney for the Le Roi No. 2, putting questions that resulted in some damaging answers being elicited. Luce's conversation was detailed, Watson declaring that the former had come to him and volunteered to give him permission to do what he pleased with certain No. 2 ores under circumstances and under conditions that made their use essential at the time. He thought that to take three pounds of ore out of a thousand pound car, or buggy, gave a fairly accurate sample. He admitted that he cost more to sample ore by the shovel method than by the hand sampling or by the automatic process. Chief Justice Hunter then put a few questions to the witness, asking particularly about the workings of the plant and matters pertaining to the course and the treating of the ores, and especially of the No. 2 ores. He asked as to the kind of workmen were needed in the plant, and concluded by remarking that in his opinion it seemed that it did not require very much brains or intellectual ability to run a smelter, if Watson could do the work of charging the stoker could do the work of conducting the workings of the plant if he had the experience.

FRIDAY'S SITTINGS.

Although a meeting of the mine managers of the Le Roi No. 2 and the manager, J. H. Mackenzie of the Le Roi company, and the attorneys of the two companies was held in pursuance of the suggestion of Chief Justice Hunter that the matter in dispute between the two companies be settled among themselves, nothing came of it, the legal battle being resumed at the court house yesterday morning. The case out of court proved futile owing to the fact that neither company could fully agree as to the manner of settlement. The managers of the Le Roi No. 2 company were willing to leave the matter of arbitration in the hands of His Lordship, Chief Justice Hunter, and agreed to abide by his decision. The Le Roi company, represented by C. R. Hamilton, also had a form of arbitration that they thought would prove satisfactory to all parties concerned. They were willing to allow the Le Roi No. 2 company for the ore in dispute, the average values obtained for the ores sampled for the ten days previous and for the ten days succeeding which, if agreed to by the opposing company, would have meant but a few hundred dollars. On the other hand, if arbitration was resorted to they were willing to leave the case in the hands of three men that were well versed in the smelting or mining industry and to abide entirely by their decision. As neither company seemed to be able to reach an agreement, the lord chief justice expressed himself as being sorry that he had made the suggestion and ordered the hearing of the case resumed.

The hearing of the case during the day developed but a few new facts, although a greater number of witnesses were examined and cross-examined, some of the case has been on trial. Most of the witnesses called by the Le Roi company during the afternoon were smelter employees, who have been in the employ of the smelter for terms varying from several months to a year or more. They were called more for the purpose of showing that the hand sampling of Le Roi No. 2 ores was not an unusual form of sampling such ores, but had been done practically oft and on ever since the ores of that mine had been shipped to the smelter. Yard slips were shown and other evidence taken, witnesses all the way from yard foremen to gentlemanly manipulators of the buggies were examined and cross-examined, some of them volunteering more information on certain subjects than was intended.

Outside of Gray, the yard foreman at the present time, who was examined at the morning session of the court, the most important witness of the day was J. H. Mackenzie, formerly foreman, but now superintendent of the Northport smelter and practically manager of the smelter since the departure of Sontagh for Spokane and way points. Watson proved an exceedingly poor witness for his side, allowing Attorney J. A. Macdonald to tangle him up on matters concerning even the smallest workings of the plant in a way that caused a smile to gather here and there upon the faces of those in the court room.

On being examined by C. R. Hamilton he stated that as superintendent of the Northport smelter he had issued orders

to Foreman Gray as to the disposal of certain of the Le Roi No. 2 ores lying in cars on the side tracks in the smelter yard. These cars were ordered by him to be sent to the high lines, his reason being to relieve the congestion then prevailing in the railroad yards and also as an accommodation to the railroad superintendent, who declared that the road needed the cars for the use of the mines at Rossland. He wished to consult with Luce, the smelter representative of the Le Roi No. 2 company, but as he failed to find Luce at any place around the yards, and as he did not think it part of his duties to hunt up Luce, as the place of the latter was supposed to be around the yards of the smelter, he sent the ore to the high lines without consulting the smelter man. He thought very little of the matter at the time, having been given permission by Luce to dispose of the ore as needed by the smelter under certain circumstances. He neglected to speak of the matter at the time to Luce, for the reason that he failed to come across that gentleman when about the yards while he was on duty. Questioned as to when the permission was given by Luce, the witness said that he had received such permission from Luce while talking to the latter shortly after a second breakdown of the crusher connected with the automatic sampler had occurred. The permission was not given to prevent the freezing over of the furnaces; at least, not as far as the witness was aware of. There had always been enough copper in the Le Roi ores to make a good matte, so that the assertion of Luce was not correct under the circumstances. During the six months previous and after the No. 2 ore had been sent through the high lines, the Le Roi ore had always gone, or rather averaged, 1.3-4 per cent copper. It had never gone below 1.4-10 per cent copper as long as he was foreman of superintendent or the company.

The cross-examination was conducted by J. A. Macdonald in a manner that made Watson wince for the time being. He admitted that he was a carpenter and that on the strike being declared he had been given the position of foreman. As a foreman he was asked if he knew the first principles of metallurgy, assaying, chemistry or other matters that are supposed to be connected with the successful operation of a smelter. He knew the principles of metallurgy, having studied it from practical experience, but was unprepared to give any demonstrations of his knowledge in that direction. As a mining man, having been a carpenter, he was requested to state how he knew and how he got his copper values mentioned in previous testimony. He replied by stating that he relied upon the figures and reports supplied him from day to day. Of copper values, he hardly wished to pose as an expert, contenting himself by stating that he relied upon the judgment of Mr. Sontagh in that direction. He was asked how he managed to carry on smelting operations and the working out of the problems surrounding the charges of a smelter, especially when a slight mistake on his part might do considerable damage to the furnaces. The uniformity of ores, he said, was what he relied upon mostly, the ore during his regime at the smelter having varied little as far as he was aware. Half of one per cent was sufficient, and that with about 88 per cent of silica, he was fully able to carry on the operations of the plant.

The permission granted him by Luce was then touched upon at some length. J. A. Macdonald, the attorney for the Le Roi No. 2, putting questions that resulted in some damaging answers being elicited. Luce's conversation was detailed, Watson declaring that the former had come to him and volunteered to give him permission to do what he pleased with certain No. 2 ores under circumstances and under conditions that made their use essential at the time. He thought that to take three pounds of ore out of a thousand pound car, or buggy, gave a fairly accurate sample. He admitted that he cost more to sample ore by the shovel method than by the hand sampling or by the automatic process. Chief Justice Hunter then put a few questions to the witness, asking particularly about the workings of the plant and matters pertaining to the course and the treating of the ores, and especially of the No. 2 ores. He asked as to the kind of workmen were needed in the plant, and concluded by remarking that in his opinion it seemed that it did not require very much brains or intellectual ability to run a smelter, if Watson could do the work of charging the stoker could do the work of conducting the workings of the plant if he had the experience.

Irwin R. Gray, yard foreman at the Northport smelter, was the first witness called in the morning by the Le Roi company. His testimony was important in several respects as it tended to show the disposition of the ore in question and also the disposal of other Le Roi No. 2 ores. He quoted from the yard record when called upon to state the disposition of lots 292, 295, 296 and 297. Of lot 295 five cars went to the high lines, the balance being sent through the automatic sampling process. Of the other cars and of the other lots his records went to show that on an average half went to the high lines and automatic samples taken. He declared that the lots of the high lines in the daytime, and the evidence on this point was further borne out later in the day by the night foreman. He said that he saw Luce on the day when the ore had been sent to the high lines, but that when he saw the latter the ore was already in the high lines and a portion in the roasters. He explained that he had cut the lots done, stating that he had cut the lots that had been sent to the high lines. The reason given for sending the cars to the high lines was that there was a shortage of empty cars and a congestion of full ones in the yards at the time.

He was asked to read from the yard records the number of samples of Le Roi No. 2 lots that had been hand-sampled, his evidence on this point serving to prove that hand-sampling had been carried out quite extensively, the average being five cars to a lot or more.

On being cross-examined it developed that Luce was unaware at the time that No. 2 ores were being sent to the

high lines and that before he saw Luce he had all of lot 292 on the roaster heaps and had worked a couple of hours on lots 296 and 297. It would have been impossible at that stage to have resampled the ores as they had practically lost their identity. He admitted that when he saw Luce one of the lots was intact, or nearly so, and that it could have been satisfactorily sampled.

The closing hours during the afternoon session were rendered somewhat interesting by the examination of several employees of the smelter. Ransom, a stenographer and a manipulator of an ore car; John Brownrigg, a former yard foreman; James Freeman, another yard foreman; Hick M. Hurt; James Grigsby, a night foreman, and Squire Beldon Christ, a sampler, were among the number questioned. Hick M. Hurt, who did the hand sampling of the cars from which the lots in dispute were taken, told of a conversation with Luce on the day that the ore was taken to the high lines. He was asked if he would have been a proper person to lodge a complaint to. He hardly thought he would be, but did not know. Squire Beldon Christ, the sampler, told of handling No. 2 ores and of the difference between hand and automatic samples. He said that Luce had never objected to him about hand samples. He admitted that he himself was an intelligent man on being asked as to that point. Would he have demonstrated how a shovel sample was taken if he had made a mistake in that if he had no pile from which to take a sample he would take it from the pile he had. The testimony of other witnesses was immaterial, most of them being let down without much ceremony by J. A. Macdonald. The case will be resumed this morning.

SATURDAY'S SITTINGS.

It was nearly 7 o'clock last night when the two attorneys in the suit of the Le Roi No. 2 vs. the Northport Smelting & Refining Company—the suit against the Le Roi mine having been dismissed early in the afternoon—ended their arguments and left the case resting in the hands of His Lordship, Chief Justice Hunter. The chief justice announced that he would give a decision after he had seen a transcript of a part of the evidence and after the attorneys of the two companies had prepared a memorandum showing what they thought was due on ores sent through the high lines. As the taking of the transcript will take some considerable time, at least a couple of weeks, his lordship announced that he would leave today and render his decision in the case later.

The chief justice showed himself thoroughly familiar with most of the points at issue. His questioning of Mine Manager Mackenzie of the Le Roi mine, brought out several facts that had not been produced either by the questioning of C. R. Hamilton or the cross-examination of J. A. Macdonald. Most of the matter and led later to further questions being put by both attorneys in the case. His lordship dealt at some length on the case, going into the sampling process and the contract between the two companies.

The case yesterday brought out very little that has not already been told. No witnesses outside of Manager Mackenzie were examined during the day. His examination occupied the attention of the court during the entire morning session, the chief justice taking a hand in the questioning in an effort to elicit and get at the facts of the matter. The Le Roi side, Mine Manager Mackenzie proved to be the best. His answers were clear and concise.

It was nearly 11 o'clock when Mr. Mackenzie was called to the stand by C. R. Hamilton. He told of his position in regard to the workings of the Northport smelter. He had sold ore to the smelter since 1873, and had been a smelter representative of several mining companies, and as such was thoroughly conversant with the duties of such position. Since coming here he had taken no active interest in the details of the smelting process, but he was familiar with the workings of the smelter from the top of the ore cars would make or were a representative sample of the entire whole of the car was gone into at some length. The fines, if thoroughly mixed, as they undoubtedly were after being shaken together in the transit from the mines to the smelter and from there into a series of bins, he considered, an approximately fair sample could be taken. The copper in the Le Roi ore during the time in which Luce declared that Sontagh had told him that he needed the No. 2 ore for fluxing at least 1.2-3 per cent, while the average needed for making a good matte was from 1-2 to 2 per cent. In consequence, he hardly thought that Le Roi No. 2 ores had at any time been needed for the purpose of preventing the furnaces at the smelter from freezing over.

During the time and immediately surrounding the shipment and the railroad line, the Le Roi was shipping to the Northport smelter on an average of 800 tons a day, the Le Roi No. 2 averaging from 175 to 200. He had noticed from the shipments that the Le Roi No. 2 ores fluctuated in value considerably, sometimes from day to day. In order to show clearly how great the differences were in the various lots sent to the smelter for treatment, a report was read of the various lots. The lots and their respective values taken in rotation are as follows: Lot 271, \$17.30; lot 277, \$13.80; lot 272, \$20.32; lot 273, \$13.75; lot 288, \$23.63; lot 281, \$14.63; lot 282, \$21.66; lot 283, \$15.40; lot 284, \$24.54. The list went on for some length, the variation obtained in values fluctuating at the same rate as the figures quoted above. The Le Roi ores, itself, fluctuated in the same manner. The duties of a representative of the smelter and his duties were gone into, a smelter, at least one of them, to handle the ore from the mines before the mines had no smelter representative. His duties were practically those of a watchman and were such, that even a carpenter could have taken hold of the proposition.

The price paid for the ore this season per bush. A large percentage engaged in securing mines, who operate Fraser river. Japanese trees operated by New Westminster. The fishermen were Prior to the operation of that class of them, some of them coasted to Japan, and some of them were now under the fish have become a only to the exportation companies. There is a large fluctuation.

GOLF CHAMPIONSHIP. H. C. Egan of H. M. MORRISTOWN. Egan of H. M. Association from Pennsylvania today to play.

Great

(Special)

HEDLEY CITY
The owners of the construction flame preparatory stamp mill and mine and the claims forming. Nickel Plate mill the head and end. Twenty-mile of Similkameen an altitude of pretty well cotton, but little work has been done. The Nickel Plate which are under the estate of the provincial mine property last year was published as the minister of the

"Nickel Plate as a gold camp, per is found, the gold, which sees arenopyrites, as found to any extent in the absence of examination, a very highly altered with pl andesites, etc., to produce the ded. It would a property the highly silicified, much altered is obscured, Th which the discovery outcrops on the altitude of 6900 feet at an angle of 10 degrees, a bed or silicious rock, the smelting near such ore, to a certain amount throughout much more pronounced in the body in amount along

ORE FROM

GRAND FORK
carloads of ore. Republic, were d smelter today.

J. A. Munson awarded the commile tram and a connection with the mill at the Nickel Hedley City, Sin A third furnace The Grand smel is now coming in

DOG

Reveste From For Looked Upon

VANCOUVER.
exportation of do Columbia to Japan for the past three has now reached permanency is as soon to expect in remarkable growth

The total amount of the British Columbia exports of this year is 2500 ton mark, and is Mr. S. Tanura commenced salmon in 1900, by the steamer Al year, he lost most of his entire stock was a small market was little profit was sent from here. Morning that the year, and he expected remunerative price about 1500 tons, amount of no market Tartar and the sailing tomorrow remainder of the is now being tr Westminster and whence it will be the steamship Tre

The price paid for the ore this season per bush. A large percentage engaged in securing mines, who operate Fraser river. Japanese trees operated by New Westminster. The fishermen were Prior to the operation of that class of them, some of them coasted to Japan, and some of them were now under the fish have become a only to the exportation companies. There is a large fluctuation.

GOLF CHAMPIONSHIP. H. C. Egan of H. M. MORRISTOWN. Egan of H. M. Association from Pennsylvania today to play.

(Continued on Page Eight)