be made on my return. Our contract with the refiners having run out, a new contract, arranged by Mr. Wilson, the smelter manager, has been entered into for the disposal of our smelter product to greater advantage than hitherto, an arrangement by which we realise upon the output much more quickly than formerly, and also save largely in the matter of bank interest and charges. The Le Roi mine is one of great value. As I stated at the last annual meeting of this company, in order to make the most of its value it is important to obtain a large tonnage of suitable fluxing ore for smelting purposes, and it is also essential to be able to utilise profitably the enormous tonnage of low-grade ore in the Le Roi mine itself. Hence, I am looking carefully into the question of amalgamation of interests and concentration, believing that, if these can be satisfactorily carried out they will result in placing the Le Roi on a sounder basis. I am returning to British Columbia at once to deal with the various matters referred to in this report."

SLOCAN CITY MINING DIVISION.

Some Midsummer Notes By W. D. McGregor.

THE season has been marked by steady improvement in the mines and by distinct depression in commercial circles. This latter is to be accounted for by the fact that too many traders were attracted to the district by the high prices prevailing. The limitation in volume of business necessitated high prices, which turned many customers into other markets, thus still further reducing the local demand However, the signs are that the stringency will soon right itself. As far as the camp proper (the working and developing properties) is concerned things could not well look better.

In the triangle between 10-Mile and Springer Creeks the Hampton, Enterprise, Ottawa, Club, Colorado, Neepawa and Happy Medium are all taking out ore that sorts to $100 or higher per ton.

On the north side of 10-Mile the shipment of high-grade ore from the Highland Light and the uncovering of what is almost certainly an extension of the Enterprise lead by Griffith and his partners, seem to be the main items of interest.

On Lemon Creek the state of the Black Prince and the commencement of work with a large crew by the new owners, the shipments from the Alberta group, and the mill test of 20 tons of Kilo ore which gave $20.50 per ton on the plates, are the principal features.

Among the general news items for August the visit of Mr. Thos. A. Noble, of Pittsburg, Pa., principal owner of the Ottawa group, probably ranks first. Mr. Noble expressed freely his satisfaction with the camp, and his mine and its management in particular. This he might well do as he stated that the property had already paid for itself and that the net profit in July was about $20,000. He and his associates have since purchased the adjoining group of nine claims and will proceed to develop them.

Mr. W. F. Robertson, Provincial Mineralogist, spent some time in this district and his remarks may be condensed into three short sentences. The camp has been victimized by humbug mining: there are a number of properties idle that should be at work, and the camp on the whole is distinctly more promising than he expected to find it.

This year's ore shipments from the division have already reached 1450 tons ,an increase over the full year's shipments for 1903. There is also a marked increase in the value per ton.

RECENT MINING DECISIONS.

WE are indebted to the Hon. Mr. Justice Martin for the following copy of a judgment recently delivered by him at Nelson in an important case involving the question of extra-lateral rights.

LAST CHANCE MINING CO. LTD. VS. AMERICAN BOY MINING CO. LTD.

It is admitted that the defendant company, owning the "American Boy" mineral claim, crown granted, has trespassed upon and abstracted ore from the plaintiffs' adjoining mineral claim, the "Last Chance" also crown granted; and the questions to be decided are two. (1) The measure of damages. (2) The amount thereof.

As to the first, the plaintiff company contends that the wrongful taking was wilful, deliberate, and without colour of right; while the defendant urges that it was innocent and accidental, and therefore brought within the principle of such a case as *Wood v. Morewood* (1841) 3 Q. B. 440. Though there is something to be said in support of the graver contention, yet as it is tantamount to a charge of theft (for there is no moral difference between fraudulently taking an ingot of gold out of a mine owner's office above ground. and fraudulently and secretly abstracting valuable gold bearing ore from his claim below ground) a very clear case would have to be made out to support it and the evidence does not warrant that conclusion here. There is however no difficulty in holding that the defendant must be found guilty of negligent abstraction, for with a full appreciation of the close proximity of the plaintiff's boundary line and the risk incurred the work was continued at the place in question in general defiance of those ordinary precautions which ought to be observed under such circumstances: and in particular the contemplated survey should have been made before any more work was done in that locality. It is manifestly of the first importance that owners of adjoining mining claims should define their boundaries, and especially where extra-lateral rights are known to exist. This rule is so well settled that it is almost unnecessary to cite authority for it, but if any be needed it will be conveniently found in Lindley on Mines (2nd. Ed. 1903) vol. 2 No. 868 pp. 1603-4 where the cases are summarized as follows:—

"It is the duty of the owner of a mine on approaching his "boundaries to make surveys to prevent encroachment on the "adjoining lands, and the least evidence of bad faith on his "part would make every intendment in favour of the injured "party."

The defendant herein being found guilty of negligence the measure of damages is the same as if he were a wilful trespasser. What that measure is has been often considered, but the two cases of *Trotter v. MacLean* (1879) 13 C. D. 575, and *Livingstone v. Rawyards Coal Co.* (1880) 5 A. C. 25 set it forth very clearly. It is there laid down that there are two rules for determining the said measure, a milder and a severer. The former is, that where the taking has been *e. g.* inadvertent, or under a bona fide belief in title, or by mere mistake, or where the owner has notice but stands by, there will be allowed to the defendant the costs of severance of the coal from the realty, as well as of bringing it to bank. The latter is, that where there has been *e. g.* fraud, or negligence, or wilfulness, only the cost of bringing to bank will be allowed. And in each case the value of the mineral taken is its value at the time it was taken to the person from whom it was taken. Lord Chancellor Cairns in *Livingstone v. Rawyards* pp. 31-2 and Lord Blackburn at pp. 39-40.

These rules are practically the same in the United States, and are conveniently stated in *United Coal Co. v. Canon City Coal Co.* (1897) 18 Morr. M. R. 639 thus:—

"We are also of the opinion that the district court applied "a correct measure of damages. The defendants being wilful "trespassers, it was proper to allow the full value of the coal "mined, without deduction for their labour and expenses in "mining the same, the rule of damages being the value of "the ore at the time and place it is severed from the realty. "If the court had found that the trespass of the defendants "was innocent in character the rule would have been the value at the time of the converstion less the amount which "the defendants by their labour had added to that value— '*Omaha R. Co. v. Tabor* (1889) 13 Colo. 41, 21 Pac. 925; *Woodenware Co. v. U. S.* (1882) 106 U. S. 432, 1 Sup. "Ct. 398."

And see also *St. Clair v. Cash Gold Mining Co.* (1896) 18 Morr. M. R. 523 and Lindley, *supra*, wherein it is laid down:

"If the trespass is the result of an honest mistake, the de- "fendant is compelled to pay only the value of the ore as "it was at the mine, and can therefore limit the recovery