

BEGIN ARGUMENT IN FAMOUS CASE

COUNSEL CONTEND RE MINING RIGHTS

Cause Celebre is Nearing an End--The Course of the Vein.

(From Wednesday's Daily.) Argument of counsel in the case of the Star Mining & Milling Company vs. the Byron N. White Company is proceeding to-day. The case dates back to 1901, when it was taken into court. The contention of the plaintiffs at that time is stated to have been that the Slocan Star vein was a very wide vein, being in fact from 80 to 200 feet wide, running the full length of the Slocan Star and passing westerly through the Rabbit Paw and Heber Fraction. The Silversmith vein, it was contended was a separate vein lying to the north of the Slocan Star vein and parallel with it, this vein being anywhere from 200 to 600 feet wide. The contention was adhered to up to and including the time the defendant's case was presented in court. Then they claimed that the Slocan Star vein was completely cut off on the fifth level by a fissure, which they have termed the block fissure. The case went through the courts on these lines. The plaintiffs wanted more work done, but Chief Justice Hunter decided in favor of the defendants. From this the defendants appealed. More work was ordered done, and the case was referred back to the trial judge for further hearing.

The Chief Justice refused to have anything further to do with the case, and the full court thereupon decided to hear further testimony.

The defendants have always claimed the Slocan Star and Silversmith veins to be one and the same, and have done, they state, extensive work on all levels to prove their contention.

The controversy in no way affects the Slocan Star claim, the defendants claiming apex rights from the Silversmith, which gives them under the law of 1891 the right to follow the vein between the end levels to an indefinite depth.

During the course of mining operations workings were carried on along the side lines of the Silversmith into the plaintiffs' ground, and they have mined suit with the contentions stated.

During the present test case, work was taken in the full court, and yesterday afternoon Mr. Davis began the summing up of the plaintiff's case. He contended that the plaintiff's case had been clearly demonstrated. He read voluminous extracts from the testimony of Mr. Oscar White, Mr. Parker and Mr. Sharpe to prove his contention. These, in his opinion, showed that there was a fissure as contended. He intimated that they did show very great ignorance on the defendant's part or very great and deliberate endeavor to conceal the fissure in question. This had been lagged up in such a way as to show a coming into view, whereas when this lagging was removed a vacant space was found behind. This on being explored proved to be a fissure running north and south. He contended that Mr. Elmendorf, one of the expert witnesses, had misstated things, and that Mr. Boehmer, another of the defendant's expert witnesses, had practically admitted that there was a fissure.

As to the remarkable turn which the vein was alleged to take Mr. Davis pointed out that despite defendant's contention there was no hanging wall, and further that all development work done went to prove plaintiff's contention. They had shown Mr. Sizer's original theory to be correct. The evidence that this was dragged out and not a portion of the original vein was clearly conclusive. The walls were non-existent. The material present was crushed and broken, and had to be lagged up as would not have been the case had there been walls present. It was also different from the barren material in portions of the Slocan Star vein. He was reading from Sharpe's evidence in support of this contention when he asked for the adjournment of the court as his voice was given out.

Argument by Mr. Davis for the plaintiffs was continued this morning. His efforts were directed to breaking down the theory of the defence especially the judgment of the Chief Justice, which was in every particular against the plaintiffs' contention. He held that there was no evidence of a fissure, and that, in his opinion, any evidence of drag ore. The endeavor of the plaintiffs to account for this was spoken of as being characterized by an ingenuity born of despair.

Mr. Davis continued reading from the evidence to show that the judgment was wrong in its contention that there was no fissure going out in a southerly direction. The evidence of the defence on this point was first very conclusive. Now one of their main witnesses, Mr. Boehmer, came forward and said that there was "movement" as he says within the vein. A "fault," said the learned counsel, "is nothing but movement." The evidence of Mr. Boehmer went to show that the celebrated block fissure was the first, and was afterwards mineralized by the crossing of the Slocan Star vein.

"Our clients," said Mr. Davis, "our contention as against the defendant's evidence at the first two trials that the fracture runs out to the north as well as to the south." The witnesses disagreement with Mr. Elmendorf was pointed out. The latter contends that the work as done shows the main lay of the vein, which the former holds that the vein branches off some distance to the south of the turn.

Moreover, what is called by Mr. Elmendorf the "hanging" by Mr. Boehmer called the foot wall. Yet the work suggested by him to prove the correctness of his theory had only served to demonstrate its incorrectness.

Barely touching on the admitted existence of the porphyry and its bearing on the presence of the mineral, Mr. Davis passed on to the question of the

drag ore. After citing Mr. Bodwell's statement at the first trial that any mining man knew drag ore, he pointed out that here one of the defendant's defence declared his inability to determine whether the specimens shown were drag ore or not. His endeavor to evade an admission on this point was characterized by Mr. Davis as being very suggestive of the language used of plaintiff's contention on this point at an earlier trial.

Mr. Davis concluded his address this morning, and Mr. S. S. Taylor began his address, and will this afternoon continue the argument for the plaintiffs.

FIRE AT 'FRISCO.

Number of Temporary Buildings Destroyed by Flames.

San Francisco, April 18.—Fire which originated in a grill 140 Van Ness street at 2:45 o'clock this morning destroyed five frame buildings and wrecked nine others. The fire broke out in a room of temporary nature, put up in the first days after the fire. All were occupied as stores. It is believed the fire was of incendiary origin.

MINERS HAVE LEFT THEIR WORK

WALK-OUT AT THE COLEMAN COLLIERY

The Property is Owned By the International Coal and Coke Company.

Lethbridge, April 18.—The coal miners at Coleman, in the Crow's Nest Pass, have left their work, and thus caused the closing down of the largest coal mining property in western Canada, with the exception of the properties of the Crow's Nest Pass Coal Company at Michel, Fernie and Coal Creek.

The Coleman colliery, owned by the International Coal & Coke Co., has a daily output of 1,500 to 1,600 tons of coal, about one-quarter of which is exported into coke, and from 30 to 400 men being employed, some 30 at the coke ovens. The miners, half the total force, were under contract on the following scale: Fifty-five cents per ton for mining, and one cent for standing; 10 cents per ton for putting in chutes; \$1 per yard for drifting; \$4.75 to \$5 per day of eight hours. The other employees for day labor are paid: Drivers, \$2.50 per shift of eight hours and \$2.75 if in wet; men carrying timber, \$2.75; timbermen, track men and brattice men, all \$3. This scale is in the principal seam, No. 2, which is the best. The rate is, except that the rate per ton is 50 cents.

Formerly there was no scale at Coleman, all men being paid on a piece-work basis. The miners went on strike on January 1st, 1905, to February 23rd following, and on March 1st of that year the present agreement came into effect to last till April 1st, 1907.

The mines opened since all started with the scale, including the Crow's Nest Pass Colliery, the Cannon Coal Company at Cannore, Pacific Coal Company at Bankhead; Canada West Coal Company, at Lille and Belleville, and the Canadian American Coal Company, at Frank.

The union at Coleman on April 1st gave the 30 days' notice required by the recent act, but the union has anticipated that period. The walk-out is presumably to secure the terms outlined by President Sherman, including a 10 per cent increase. The Coleman property was opened on July 1st, 1904, by Reynolds, the mine superintendent, and now superintendent of the Diamond Coal Company at Diamond City. H. C. Galer is general manager and Geo. L. Fraser mine superintendent.

Conservation at Fernie.

Calgary, Alta., April 18.—The arbitrary walk-out of miners in the bituminous coal regions causing consternation here and the situation regarded as the most serious in the history of the West.

OTTAWA NOTES.

Branch of Inter-Parliamentary Peace Union Formed.—The Insurance Commission.

Ottawa, April 17.—At a meeting of senators and members of parliament here to-day a branch of the Inter-Parliamentary Union for peace was organized, and a telegram prepared and sent to Earl Grey in New York, who addresses the peace conference there to-day. It is hoped that the next conference may be held in Canada.

Insurance Commission.

Mr. Houghton (Lennox), moved a resolution on the motion to go in to supply condemning the insurance commission for improper and reprehensible partisan conduct and having exceeded its scope of inquiry. Hon. W. S. Fielding said that there was nothing new to reply to and no object in carrying on further discussion. Col. Hughes and Hon. G. E. Foster spoke on the same lines as the latter had already taken.

Speaks at Toronto.

Ralph Smith has gone to Toronto to speak at a banquet of the Reform Association.

Mr. Gallier's Wedding.

William Gallier, M. P., is to be married to-day in Buffalo.

Mrs. Macpherson's Mother Dead.

R. G. Macpherson, who returned yesterday from Toronto, where he had been seeing his mother, who was seriously ill, has received a telegram that she died last night. He left at once for Toronto.

PRESENTATION TO ELDER.

Montreal, April 18.—Calvin Presbyterian congregation presented John McLorie, chief elder and superintendent, with a gold watch chain and locket on the eve of his departure for British Columbia.

THOUSANDS OF IMMIGRANTS

ARE NOW ARRIVING IN EASTERN CANADA

Many Will Come to This Province--Man Crushed to Death in Elevator.

Montreal, April 17.—On Saturday and Sunday no less than 6,000 immigrants arrived in Montreal on their way to Western Canada, many being for British Columbia. These people, who are almost entirely English, landed from five ships at St. John and Halifax during the past few days. Four ships now coming into the Canadian ports have on board 4,800 British immigrants who are also on their way West, making a total of 10,800 for one week.

Arrivals at Winnipeg.

Winnipeg, April 17.—Seventeen hundred immigrants arrived yesterday and five train loads are due to-day. A snowstorm has been raging for two days and the weather is cold.

Lumber Inquiry.

Calgary, April 18.—E. E. Taylor, of Calgary, who has just returned from giving evidence before the lumber committee in Ottawa, states that the evidence of the millmen and others was so far from the facts that the committee will resume some who gave evidence. He says that the committee is satisfied that a combine exists, and is only discussing action to be taken to remedy it.

Killed in Elevator.

Port Arthur, April 17.—Jaki Lokhl, employed at the British-American elevator, while at work in the basement was instantly killed yesterday. His clothing was caught by the shafting, and he was whirled around by the revolving shaft. When the engine was stopped and the unfortunate man extricated life was extinct.

Winnipeg Bonds.

Winnipeg, April 17.—The board of control will request the city council that Mayor Ashdown be sent to England in connection with civic business. The reason given by a member for the prospective trip is that the evidence of the millmen and others was so far from the facts that the committee will resume some who gave evidence. He says that the committee is satisfied that a combine exists, and is only discussing action to be taken to remedy it.

Will Be Delayed.

Port William, April 18.—Navigation will be greatly delayed this year, at Canadian ports. From Silver Island, 25 miles out, open water was not discernible. There are miles of ice outside. Unless the ice-breakers go out it will be late in May before navigation opens here.

LONG DISTANCE SWIMMING.

C. M. Daniels Accepts Challenge to Meet Henry Taylor, the English Champion.

New York, April 17.—C. M. Daniels, of the New York Athletic Club, yesterday accepted a challenge from Henry Taylor. The latter is the long-distance champion of England, and is supposed to be one of the best long distance swimmers from the quarter to the mile. Daniels was unable to compete in the mile championship of England while abroad last year.

The match will take place at Battersby on September 16th, where most of the English salt water championships are held.

OLD AND INNOCENT MEN WERE EXECUTED

How Soldiers Suppressed the Recent Rising Among the Peasants in Roumania.

Bucharest, April 17.—The Advertiser publishes particulars concerning the repressive measures made use of recently in the suppression of the peasant revolt.

It appears that at Vlatu when the soldiers appeared the peasants fled to the forests, leaving behind them only some helpless old men. The soldiers arrested twenty-five of these, including the burgomaster, who was 72 years old. They were all executed under martial law. The Burgomaster's grandson, 14 years old, was compelled to witness the execution.

Similar wholesale shootings occurred at other villages. At Cismalmare fifty men, including the arch priest, Maracina, and his secretary, were shot down. Large numbers of the individuals thus executed were completely innocent of any part in the riots.

TOURIST ROBBED IN PARIS.

New York Real Estate Broker Lost \$2,000 in Cash and Jewels Worth \$13,000.

New York, April 17.—With the arrival of the North German Lloyd liner Kronprinz Wilhelm, which docked last night in Hoboken, it became known that Sidney Smith, real estate broker of this city, had been robbed of \$15,000 in Paris.

Mr. Smith was travelling on the complaint of a party of friends, and while stopping at a hotel in Paris placed \$2,000 in cash, and jewels valued at \$13,000, in a steel box, which he kept in his room. The police of Paris were notified, and they began a search for a valet who had been employed for the party. They traced him to the southern part of France, and were close upon him when they found he had booked passage for New York on a slow second class steamer. Mr. Smith said that the man was now in this city.

COUNTRESS ENDS LIFE. Married Against Wishes of Parents and Had Been in Financial Straits Since Wedding.

Paris, April 17.—The Countess de Jotemps committed suicide by shooting with a revolver in this city yesterday. The countess was a Russian 27 years old and was possessed of considerable beauty. She was married two years ago against the wishes of her parents to the Count de Jotemps. The couple were constantly in financial straits.

Last summer the countess was arrested on a charge of pawning certain jewels that had been sent him on approval by her parents for aid. On her return to Paris she appeared most despondent, and made no attempt to conceal her desperate situation. The fact that her husband was arrested, was ostracized by society added greatly to her anguish, and it is believed, helped to unhinge her mind.

PEACE CONGRESS IN NEW YORK

RESOLUTIONS SUBMITTED AT GENERAL SESSION

Two Dinners to Be Held To-Night At Which Prominent Delegates Will Speak.

New York, April 17.—What probably was the most important meeting of the delegates to the peace congress was held at Carnegie hall at 10:30 this morning. This was the general conference of delegates for the purpose of submitting and considering resolutions. Dr. R. P. Tuckwell presided.

In the afternoon there will be a regular session in Carnegie hall, at which Wm. J. Bryan will be one of the speakers. Mr. Low will preside, and the other speakers will be Richard Barltold, Wm. W. Morrow, Senator Jaz. R. McCree, John W. Foster and Diego Mendosa.

There was also a conference of peace workers at the Broadway Tabernacle at 9:30 o'clock, at which Mrs. Lucia W. Metzger presided. She would say nothing with regard to the proposed extension via Albert to Mexico, nor of the branch line from Danvers to Cowichan Lake.

The contract with the English company for the clearing of 150,000 acres of the company's land on the island is being concluded, but there remain a number of questions still in abeyance in connection with it.

Mr. Whyte looks for a huge increase in immigration this year. "The company," he said, "is meeting with difficulty in supplying sufficient cars to handle the immigration traffic. The season promises to be the busiest on record."

"The company is having no difficulty in obtaining labor. There are at present almost too many men in the territory. Of course farming operations have not commenced and for the same reason the lateness of the season, railway construction is at a standstill."

Mr. Whyte stated that the new Empire hotel will be completed, he thinks, by July. There are a number of minor changes in the plans.

In the opinion of the second vice-president, the C. P. R. has little to fear from the rivalry of the Tehuantepec Railway and the new Mexican-Canadian line in handling transcontinental business. "It is too roundabout a route," he considers.

JUVENILE DEPARTMENT FOR PUBLIC LIBRARY

Will Be Established With Portion of This Year's Grant to Library Board.

(From Wednesday's Daily.) A juvenile department will be in the very near future to be added to the Victoria Carnegie library. About seventy new volumes suitable for children between the ages of 12 and 18 years have been ordered and are expected to arrive very shortly.

There was some talk of forming a "Canadian department" in connection with the library to be devoted entirely to Canadian literature and history. The library is still young, however, for such a movement, and although it does not seem possible to form this department at once, it is looked forward to in the near future.

The library board are unable to do much in the way of advancement, as they are confined to \$5,000 per year. About two-thirds of this amount goes to maintenance, such as lighting, heating, etc. Another great expense is the repairing and rebinding of the books, which, as can readily be seen, is considerable. There are somewhat over 1,000 people at present obtaining books from the library.

From the remaining sum the board counts on purchasing about 700 new volumes each year. These books are principally modern fiction and scientific works.

Alderman Fell, of the library board, on being asked whether the "Decameron," a book which Ald. Hanna declared unfit for circulation, would be taken out of the library, replied, "Certainly not. This book, which is a relic of the first Victoria public library, has been in circulation for 25 years, and it is certainly late in the day to discover that it is unfit to be read. It will probably be taken out of the general circulation list, however. Ald. Hanna had no need to bring it up before the council," he continued, "and thus bring it into publicity. He should have quietly reported it to the librarian, and when no doubt there would have been taken to remove it."

DESTROYED BY FIRE.

Revelotake, April 18.—Through the explosion of a lamp in the C. P. R. section house at Revelotake, the station building of the Selkirk near the summit, the building was burned to the ground, and the occupants were forced to sleep in the open, despite the fact that the weather was exceedingly cold. The section men lost all their belongings.

COURT-MARTIAL ADJOURNED.

Port Townsend, April 17.—The court-martial of Lieut. Miller, which promises to be a long and tedious one, has been adjourned till Monday on account of the sudden illness of Judge Advocate Buckley.

REDUCING GRADE THROUGH ROCKIES

COPING WITH THE INCREASED TRAFFIC

William Whyte, Second Vice-President of C. P. R., Visits Victoria.

(From Wednesday's Daily.) William Whyte, second vice-president of the C. P. R., and general manager of the lines west of Winnipeg, is in the city to-day on his annual tour of inspection. He, with Mrs. Whyte, are at the Oak Bay hotel. He will tomorrow take a trip up the E. & N. returning to Vancouver on his way east on Saturday.

"The C. P. R. will be able to cope with the demand of traffic westward despite the phenomenal increase of the past few years," he remarked to the Times this morning.

"The C. P. R. purpose reducing the 4.5 grade on the west side of the Rockies to a grade of 3.2. While this will be done at enormous expense, it will immediately increase the capacity of the road. It will permit us to cope with all the business that offers."

"The car shortage, which has been experienced in the past few months is due to a variety of causes. First, and foremost, there is the severity of the weather and the length of the winter. Only this morning I received a telegram stating that a train was blocked by a snow storm. In addition to this, there is the fact that a great quantity of wheat remains to be moved. This was stored to a great extent in temporary granaries. Much of it is mingled with ice and snow. A great deal was stored out on the prairies without cover. This must be moved before the wet weather of spring sets in, or the wheat will be ruined. We are moving it at the rate of 200 cars a day.

"For that reason we have been handicapped in dealing with the lumber trade of this province. Within a few weeks we will be able to furnish the trade with 100 cars a day. Many new cars are being turned out by the company's shops in Montreal."

In continuing, Mr. Whyte stated that there were a number of plans with regard to railway extension on the Island that nothing as yet had been done. He would say nothing with regard to the proposed extension via Albert to Mexico, nor of the branch line from Danvers to Cowichan Lake.

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SWEETENHAM'S SUCCESSOR. Sydney Oliver Will Succeed For Jamaica Next Month to Take Office as Governor.

London, April 17.—Sydney Oliver, until recently principal clerk of the West African department of the colonial office, ex-colonial secretary of Jamaica, and acting governor of the Island in 1900-1902 and 1904, who has been appointed to succeed Sir Alex Sweetenham as Governor of Jamaica, sails for Kingston on May 4th on the steamer Port Kingston, in order to take over the governorship of the Island.

SEVERING IN FORTRESS. Rear-Admiral Nebogott Begins His Ten Years' Sentence.

St. Petersburg, April 17.—Rear Admiral Nebogott, whose surrender of the Russian Pacific squadron at the battle of the Sea of Japan led to his trial by court-martial and sentence to death, but whose sentence was commuted to ten years' imprisonment, has begun to serve his term in the fortress of St. Peter and St. Paul. He is assigned to a comfortable room and will be allowed a special diet.

SAN FRANCISCO GRAFT SCANDAL

POWERFUL COMBINE NOW OPPOSES HENRY

Harriman and Others Have Joined Forces in Order to Crush Relentless Prosecutor.

San Francisco, April 17.—A conspiracy, appalling in immensity, is disclosed by a morning paper to-day which states that Harriman, the United Railroads, the Pacific Telephone & Telegraph Co., the Home Telephone Co., and the Southern Pacific Co. have united to fight Henry.

Combined they represent the most powerful forces America has ever known. They control capital practically unlimited.

They join forces because it is a little secret here that Henry is really after Patrick Calhoun, president of the United Railroads, an eighty million dollar corporation, Harriman himself and Herrin, of the Southern Pacific.

Other members of the conspiracy are in hot water already.

MEXICAN EARTHQUAKE.

Damage Greater Than the First Disasters Indicated—Acapulco Partially Submerged.

Mexico City, April 18.—The extent of the damage wrought by the earthquake will be greater than hitherto reported.

The first related press telegrams reach this city for twenty-four hours past were received by the Associated Press at 1 o'clock this afternoon. From them it is learned that the town of Ayutla, to the east of Acapulco, and not far from the Pacific coast, and the town of Omotepac about 70 miles to the east of Ayutla, have been practically destroyed. The shocks continued at Chilpancingo, 125 miles south of here, all last night, and were quite severe. Many of the buildings that were left standing by the previous tremblings were leveled to the ground. The last shock at Chilpancingo occurred at 4 o'clock this morning. The general in command of the troops was severely injured. The jail, hospitals and school buildings at this town were destroyed. The prisoners are now being guarded by the rural guards.

The federal government is extending aid, but it will be impossible to restore calm until the shocks cease. The number of deaths reported to date is 37. Fourteen persons were killed in one house. The number of injured is placed at 39.

Traffic between Mexico City and Vera Cruz has been completely suspended, as large sections of the track of both the international and Mexican railroads are sinking.

The port of Acapulco is reported to be partially submerged.

Lasted Twenty Minutes.

Montreal, April 18.—O. H. Cahan, of the Mexican Light, Heat & Power Company, wired the following to Mr. Doble, secretary-treasurer of the company:

"I had the severest earthquake of twenty years last night, lasting 20 minutes. All the stations at Necker, Elora and Mexico City stood the shock without a single crack. There was trifling damage to the distributing system and telephone wires."

THE M'GILL FIRES.

Incendiary May Have Been Responsible for Outbreak—The Insurance.

Montreal, April 18.—Students and others connected with the McGill University are seriously discussing the possibility of a two recent fires being the work of an incendiary. The mysterious origin of both fires adds to the unusual hour at which they started, the first about 5 o'clock and the last one at 1 o'clock in the morning, leads to the impression that they did not originate by accident. Unless due to disorder of mind the professors and students can hardly conceive of any one being so vindictive as to burn up two valuable buildings, entailing a loss of over a million in money and the destruction of collections of models and specimens practically priceless in value.

The amount of insurance on the medical buildings is \$50,000, of which \$20,000 is on the buildings and the balance on the contents. This amount is widely distributed among insurance companies. The loss is approximately put at \$500,000, but the college authorities are not prepared to subscribe to any particular amount, owing to the impossibility of placing a value on the collections of many years which have been wiped out.

EMPEROR HELD AT QUARANTINE

OVERSEAS MAIL IS STILL DELAYED

Sickness Discovered on Board--Vessel Must Be Fumigated Before Proceeding

(From Wednesday's Daily.) Coming from Vancouver the R. M. S. Empress of Japan arrived at Whittier Head quarantine station at 3 o'clock this morning. Throughout the day she has been lying there with a case of sickness, believed to be smallpox, was discovered amongst her crew, and an effort is now being made to isolate the stricken man.

The case was discovered in Vancouver yesterday evening when the Empress, that one of the crew was suffering from what is thought to be smallpox orders were received that the vessel was to pull out and proceed to the William Head quarantine station. On her arrival Dr. Wait at once went on board and commenced operations to prevent the disease from spreading.

Although a policy of secrecy has been observed since the outbreak, it has been ascertained that she is being thoroughly fumigated. The crew is being isolated, and if after a certain number of hours there is no spread of the disease the vessel will be declared safe.

The Empress of Japan was waiting the arrival of the Empress of Canada, but on account of the outbreak she was unable to leave for Vancouver. Should the Empress be ready to sail within the next day or two it is understood that the mail will be brought from Victoria. The Empress of Canada will be transferred to the Empress as she lies at quarantine.