IRON MASK-CENTRE STAR SUIT

Defendants Granted Leave to Work In the Iron Mask Ground.

The Adjournment Asked for by the Plaintiffs Granted on Condition of Paying the Costs, Which Will Probably Amount to $40,000---Adjournment Today.

Thursday's Court.

Mr. Bodwell practically took up the whole of Thursday with the cross-examination of Clarence King.

Mr. King went over the ground referred to in his evidence in chief, but nothing particularly new was elicited. Mr. King maintained the position taken by him in his examination in chief.

Mr. Bodwell stated that he might want to ask a few questions tomorrow, but that practically he had concluded his cross-examination. Mr. King was asked about the flat fault that is mentioned so frequently. "I don't think I can tell exactly what caused the fissure. I think he veins are older than most of the verticals that I have seen. I think the veins are older than the fault discribed on the north drift of No. 3 raise."

It is perhaps fair to say that no material change was made in the story originally told by the witness, but the statements got very broken up and disjointed as the lengthy cross-examination proceeded.

The proceedings today are expected to be of a character that will permit of a digest of the evidence being prepared and published. The court will open as usual at 11 o'clock.

Friday's Court.

The defence, in the pending legal battle, scored a distinct advantage Friday, when, after contending all day, the Court allowed the application to do experimental work in the Centre Star winze, on Iron Mask ground, made by the defendants. The application has been frequently before the Court since the inception of the litigation.

When the application first came up Mr. Justice Walkem considered that while he would like to grant the leave asked he did not think he had the jurisdiction to make the order and refused the application. An appeal was made to the full court, who held that the judge had jurisdiction, but that the order could not be made at that stage of the action, and left the whole matter to the trial judge. At the opening of the trial, it will be remembered, that Mr. Davis renewed his application and the trial judge, Mr. Justice Walkem, adjourned the motion until there was evidence of prima facie case made out by the defendants, and His Lordship held today that this had been done and that it was clearly in the interests of justice to grant the order, and he did so. The details of the order will be gone into today, and some interesting points will be raised, but the fact remains that after trying three times the defence have at last succeeded in obtaining the long looked for leave. Just when the work will be proceeded with and who will do it will be decided by the Court this morning.

The court opened yesterday morning promptly at 11 o'clock, when the learned judge took his seat.

Mr. King went back into the box and was re-examined for about half an hour. The expert, in addition to his re-examination, also made some explanations to the court, but his evidence given did not in any way conflict or alter the evidence in chief given by him the other day. It was at the close of Mr. King's evidence that Mr. Davis, on behalf of the defendants, renewed his application for leave to do work made at the opening of the court. The defendants, it will be remembered, applied some time before the trial for leave to do certain work in the disputed ground, alleging that if they were allowed to do so they could prove to a certainty certain facts that they were at present only in a position to prove by the evidence of expert testimony. The learned judge who heard this application at Victoria, refused it, and the judgment of the full court was had on the question. The full court at Victoria held that at that stage of the proceedings a case had not been made out to warrant their making the order asked. But while they refused the application they referred the matter to the learned judge at the trial, leaving it in his discretion to do justice in the matter. When the case came up before Mr. Justice Walkem at the opening of the trial, his lordship held that no material change had taken place since the question was before the full court and he refused the application at the time, but gave leave to counsel to bring the matter up again at such stage of the case as the counsel might be advised. Mr. Davis now brought his motion, based on the evidence of Mr. King and some other material which was before the court for an order giving the defendants liberty to carry out work upon the vein in question herein (incline vein) for the purpose of obtaining evidence by continuing the defendants' winze down to the Iron Mask east drift, a distance of 15 or 20 feet, in order to connect that portion of the vein claimed by the defendants herein with that portion of the said vein which is exposed in the said east drift of the plaintiffs'.

Counsel stated that there were only three fighting points in dispute, as he had mentioned the other day, those three being, first, is there an apex of a vein on the Centre Star ground where it is claimed?

The second: Is there a vein continuing down from that apex (assuming there is an apex) continuously into and through Iron Mask ground, or as it was put in the affidavits, is there a continuous vein or any vein whatever in the No. 3 shaft, that is, the inclined shaft?

And thirdly, assuming the apex and the vein, is that vein as all other veins which meet the flat fault cut off entirely and its continuity destroyed by the so-called flat fault?

These are the three fighting points in the mining branch of the case; the case outside of these being a question of title.

The evidence of Mr. King should practically demonstrate the truth of the first question, and as to questions two and three the counsel read sections of the evidence in chief given by Mr. King as follows:

"I have previously described the ore as passing continuously from the intersection of this drift with No 3 shaft, and stated the fact that I followed it continuously to meet the case which might be made by from the shaft to the east face of this drift 110 feet. which is the face given in the winze. From this point I followed the ore continuously down at an angle of about 45 degrees to the flat fault. I there found the flat fault coming in from the north, cutting straight through the winze intersecting the ore and disappearing in the southern foot of the winze. I have got the exact figures there. There is a slight difference of dip in the winze of the flat fault on the west and on the east side as it passes through. On the east side the dip is about 27 degrees, and on the west side the dip is about 33 degrees. This slight difference is plainly due to the amount of attrition and fracturing which the origin of the fault caused. The width of the fault on the face of it, namely, on the north side, is about two feet, including all the attrition matter, and where it passes out as far as it can be seen it is not over 12 to 14 inches. That is to say, the parallel fracturing and attrition matter which accompanies the flat fault is greater at this end than at that. There are two feet of attrition matter on the upper side, the north side of the drift, partly a sort of washing, an abrasion of the rock, and in the wash made, an oxide of iron. Accompanying this ore which I have traced down this winze, there is a somewhat imperfectly seen fault limiting the bottom of the ore, a fissure, I should say, not a fault, and on top of this ore another and far better defined fissure which accompanies and limits the ore all the way down to the flat fault. Two feet above this is a parallel wall, so that we have here three planes accompanying the ore; one illy defined, largely on account of the opening which does not fully expose it; one capping of the ore which is well defined and is plainly visible, and a third which overlies the accompanying plane, overlying about two feet above. When we come to the flat fault it is seen that a dislocation has taken place and the ore is found on the downward course, further down on the dip of the flat fault than it is above. In other words, there has been a reverse of this position of about 15 inches. The body of ore in approaching this flat fault has widened from above until it is swelled out into a groove. There has been a slight upward swelling of the ore there and a slight downward swelling. In other words, the ore at this point is wider than it is 20 or 40 feet above. Directly beneath the fault the ore is found 14 to 15 inches to the south and below the other. The breadth of the ore is something like three feet. The top of the ore being at that point where it is cut off by the fault opposed against country rock, about 15 feet below the same dislocated type of the ore is found beneath, and since the ore here was far broader than the dislocation, you can pass from this point straight through and across the flat fault and find ore in full force below. In other words, the ore is far broader than the dislocation and the dislocation being 15 inches and the ore from two to three feet, you can pass in continuous ore with no break except the cutting of the fault, and the whole bottom of this winze is in ore here, which is the mere displaced portion of the ore above. This is further proved by the portion of the upper wall, which I described as a companion wall, and by the wall which immediately caps and limits the upper side of the ore. These two walls are found dislocated in exactly the similar distance and manner that the ore itself is, proving that the entire dislocation is of even movement. There is no ore between the companion wall and the upper wall. I do not think this is usual in this part of the mine, that is, the ore descends and follows consecutively to the bottom, and the whole bottom of the winze from the north corner to the south all the way is in ore underneath the flat fault. The dip is defined by the upper limiting plane which accompanies the ore and the dip is identical below the flat fault and above, so that there is proof that the portion observed underneath and the portion observed above are not the casual meeting of two ore bodies brought together from a distance, but they are the identical body. You could not get the dip of ore in the bottom of the winze by standing there and looking at it. Unless you could strip it, and unless you had the authority to work it and strip, or unless you had some corresponding planes which could be seen above and below the fault and whose identity could be proved by their interval, by their stripping, and by their dip and by their relation to the ore. There are some points of geological interest at the bottom of the winze. Near the east vein of this pit which forms the bottom of the winze is a small lamprophyre dyke which traverses the country from north to south and which is earlier than the flat fault, since the flat fault itself passes through it. It is a vertical dyke, but with the flat fault in position the flat fault does not displace the dyke as well as can be seen, which would simply prove that the flat fault was later than the dyke and the fact of there being no displacement would prove that the line of action is on the direction of the strike of the dyke. I would not notice a small displacement in the dyke. It would be merely a displacement of the dyke upon itself and not a mis-matching of the parts of the dyke. A displacement would not show upon the dyke in any way whatever. Finding no displacement on the dyke would prove that there is no horizontal displacement there. The seam cuts out the dyke, but does not displace it horizontally. To be exact the flat fault in approaching the dyke divides and one of the main fissure plates goes directly through the dyke and the subordinate and the less important part recurs on itself and goes down. I have seen the dyke upon the outcrop. It cuts the outcrop. It also cuts the railroad embankment just below. It is also seen between 39 and 40 on the Centre Star north drift in its downward course. The dyke is earlier than the mud seam. The dyke cuts the vein without displaceing it. The ore of the Centre Star vein No. 2 is found to the east of the dyke in its proper position, so that the dyke has not displaced the ore at that point. The dyke cuts across the outcrop without displacement, that is, the ore is on either side."

Besides referring to the evidence of Mr. King in support of his application, counsel read some of the affidavits made on the motion for an injunction. The ones particularly referred to were made by the experts Kellog and Howe, to show where there would be an evident contradiction in fact between Mr. King and these gentlemen, and added that if the defendants were allowed to do the work in question the points could be positively cleared up at once. Counsel made a strong appeal to the court to ascertain the truth of the facts in dispute by granting an order permitting the defendants to do the work, claiming that no possible harm could happen to the plaintiffs and that if the defendants were not afraid to put the inference given by their experts to the proof of actual work, the plaintiffs should be willing to do the same thing

It is hardly necessary to state that Mr. Bodwell very strongly opposed the application. What he stated was that even if the defendants succeeded in proving what they stated they could prove by doing the work, that they would not prove enough for the plaintiffs and that it would become necessary for the plaintiffs to do a good deal more work on their own account the defence by doing experimental work. "Our difference," said the learned counsel, "is one almost entirely of the inference to be drawn from certain facts. I could almost agree to all the facts stated by Mr. King. It is from the inferences that my learned friend and his witnesses draw that we differ." The work sought to be done by the defendants was the very work that was stopped by the injunction granted and the whole of our suit was in the main to obtain the injunction in question so that the plaintiffs were beginning from the bottom of the case and working back by way of a change. "Stripped of all the grammar which my learned friend has put around his case, the point of difference between us is almost entirely a disputed inference." If the defendants succeeded in proving what they claim they will prove, no new state of facts but merely a continuation of the class of proof they are liable to adduce by the working already done. If the work is allowed it would unquestionably complicate the case a great deal, and the plaintiffs would not be in a position to proceed with the case. They had come prepared to meet a certain case, but if the issues were allowed to become complicated they would certainly be obliged to ask for a considerable enlargement. In fact an indefinite one. At this period the court adjourned until 2:30 o'clock for lunch.

On resuming, Mr. Bodwell expressed the desire of adding to the statements that he had already made, and he then went into the question of the jurisdiction of the court to make the order asked. He stated that the judgment of the Full Court at Victoria had not expressly held that the trial judge had any jurisdiction to entertain the motion, and he argued that the question was still entirely open for his lordship to entertain on this point. He also cited cases showing how far decisions in the United States courts could be regarded by our own courts, and quoted cases to show that the decisions of the United States courts, under any circumstances, could not bind our own courts, and would be only recognized as the opinions of able men who, it might be taken for granted, had a knowledge of our laws.

In conclusion, the counsel for the plaintiffs again went over the chief points raised by him on the application, and was followed by Mr. Davis, who stated generally his answer to Mr. Bodwell's argument. He reviewed the jurisdiction of the court to entertain the application, and argued that the judgment of the Full Court had unquestionably left the whole matter to the trial judge. Having done so, they, the Full Court, could not have had any doubt as to the jurisdiction of his lordship to entertain the application. Further- two of the judges had expressly stated that they had no doubt that his lordship had jurisdiction to entertain the application if in his discretion he was of the opinion that the interests of justice would be best served by allowing the application. Counsel for defense went over all the grounds raised by the plaintiffs in objection to the application, and contended that on all the points shown he had made out a perfectly good ground for the court, using the undoubted discretion that had been left to him.

At the conclusion of the argument the learned judge stated that when the first application was made to him long before the trial, he had had certain American cases quoted to him, and had been convinced of the desirability of granting the application, but at that time he felt that he had been stopped by the case quoted, which showed that he had no jurisdiction to entertain the motion at all. He had so stated in his judgment at the time, and he had been prevented from making the order then entirely on the ground of want of jurisdiction. Since that time the Full Court at Victoria had reviewed his decision, and had, in his opinion, stated fairly that he had perfect jurisdiction to make the order if it was in the interest of justice to do so, it being a matter left to his discretion that his lordship said he had no hesitation in making the order. When the application was renewed before him at the opening of the case, he felt that he was still bound by the opinion expressed by the Full Court that, leaving the question of jurisdiction out altogether, the facts before the court had not advanced to that stage in which the court felt justified in making the order. The Full Court had further stated that at a period to be reached in the trial of the case the judge who presided over the trial might decide fairly when the order could be made, and his lordship felt that that stage had now been arrived at. Reading from the evidence of Mr. King, he said that the defendants had made out a prima facie case on the points in dispute; that being so, it was eminently proper that the work that was asked to be done should be done forthwith. It would remove the question from one of expert testimony to one of proved fact. Unless the question of his jurisdiction had been removed he was quite willing to give effect to the decisions rendered by United States courts. In that country the courts have been in the habit of directing the inquiries long before the trial, in fact, in order that the evidence so obtained could be used upon the trial itself. In this particular case the Full Court had seen fit to restrain the granting of the leave asked until a certain branch of the evidence had been taken up, and His Lordship thought that the evidence of Mr. King had satisfied him of the necessity of granting the application. He differed from the findings of the Full Court in some respects, particularly from the judgment of Mr. Justice Drake, and His Lordship proceeded to point out wherein he differed from the judgment of the Full Court. However, he had arrived at a decision regarding the application and was fully of the opinion that the defendants were entitled to proceed at once with the necessary work. It would remove, His Lordship thought, all doubt upon the question and decide once for all on the facts now only alleged. It would be of the utmost assistance to him in arriving at a decision. His Lordship then reviewed and distinguished between several of the cases cited to him both in support of the motion and in opposition to it. Mr. Bodwell, at the conclusion of His Lordship's statements, applied for an adjournment of thewhole case until such time as he could obtain the views of the Full Court on His Lordship's rulings. He again stated that in case the work was done as directed that it would be necessary for the plaintiffs to do a great deal more work in order to uphold the contention they had in view, and without disclosing his case further that it would be unjust for him now to be asked to proceed further in the case so that an adjournment of the trial for a considerable time would be necessary in order to protect the interests of the plaintiffs. In any case, he would ask that the question of adjourning, the further taking of evidence or of the carrying out of the order would be allowed as a matter of right. If the order was made, said counsel, and the work was proceeded with a wrong might be done the plaintiffs which could never be remedied, whereas ,if the working out of the order was held in abeyance no harm could come to the defendants, and it might be that the judgment of the Full Court would prevent the work from being done. Mr. Davis stated that perhaps it would be more convenient at this stage to have the whole question argued out on the meeting of the Court tomorrow; and it was finally agreed that the question of granting the adjournment for the purpose of having the appeal heard should be held over until today.

Accrodingly this morning the terms of the order made by the Court yesterday will come up for discussion. Mr. Bodwell has plainly outlined his objection. He wants, in the first place, an adjournment for the purpose of having the Full Court at Victoria review the findings of His Lordship yesterday. He further wants a stay of proceedings under the order so that the work asked to be done shall remain in abeyance, and he has intimated that in case the Full Court at Victoria should uphold the learned judge's decision that he will then press a formal motion to adjourn the trial of the action for an indefinite period.

It may be taken for granted that Mr. Bodwell's views will be strongly opposed by Mr. Davis.

Mr. Davis' contention will be, as he clearly stated yesterday, that the defendants are to be at liberty under the terms of the order to proceed forthwith to do the work directed; that there shall be no discontinuance of the case, but that it will proceed without any abatement.

The learned judge intimated last night unmistakably that a very strong case will have to be made out before he will consent to any adjournment of the case, having in view the attendance here of the experts and other witnesses.

An interesting discussion may therefore be looked for today when the Court meets at 11 o'clock.

Saturday's Court.

At the opening of the court in the Iron Mask-Centre Star suit Saturday morning the first matter which came up was the settlement of the draft terms of the order giving the Centre Star people leave to do exploratory work in the Iron Mask ground. This was not settled at the morning session, but was taken up again in the afternoon. It was then argued and finally settled, and the exploratory work is now in progress under the charge of D. J. Macdonald, a disinterested party and formerly manager of the Columbia-Kootenay.

After this point had been settled the question of adjourning the case came up.

Mr. Bodwell, for the Iron Mask people, stated that an adjournment was necessary in order to allow the plaintiffs, the Iron Mask company, to do at least 300 feet of work in their own ground, which would require a period of from 60 to 90 days in which to perform the same.

Mr. Justice Walkem asked for an affidavit showing details of the work to be done.

Mr. Davis, counsel for the Centre Star company, stated that he was quite ready to allow a statement by Mr. Bodwell to be substituted for such an affidavit, and this was agreed to. Mr. Bodwell accordingly outlined the particulars, and his statement is particularly interesting, as containing very largely a presentation of the case of the plaintiffs.

Mr. Bodwell said: In a general way, my lord, our case is, with reference to the particular points disclosed at the winze, that whatever may be the apparent condition, that the flat fault is a feature of such prominence and permanence in this district, that it cuts off the continuity of any ore that is found there; and we also believe that the rock, what would otherwise be termed the "country rock," in the neighborhood of all these veins, had originally a certain amount of mineralization, and that mineralization has been segregated by certain actions in certain places; and that therefore there may even be, owing entirely to local conditions, an apparent continuity of ore, without any real continuity of any vein which may be found in the neighborhood. Therefore, as I told your lordship, we have always considered that if work was to be done at the Centre Star winze, in all human probibility, a certain amount of mineralization would be found there below the point already found. We know, also, from the general fracturing of the country, there will be any amount of places found in that neighborhood, running in almost every conceivable direction.

Now, what we propose to do, in order to demonstrate our theory on that point, in the neighborhood of the Centre Star east winze and No. 3 incline and the No. 69 east drift of the Iron Mask and the country immediately to the south and immediately north of those points—we expect to find a number of broken ends of veins in that neighborhood—of different veins. We propose to crosscut north and south, to raise and sink within that neighborhood, in order to show that no ore bodies which exist there have any permanent continuity below the flat fault, and none above the flat fault; and with no apparent mineralization through the country rock at those places. We purpose to go far enough in each case to show that any apparent mineralization that can be found is not a part of any vein which exists upon, or if it is to be attributed to anything at all it is to some other ore body which has its entire existence below the fault. We have always had that in view, and we have always intended if work were allowed to be done there, to go on and demonstrate these facts, which, as your lordship knows, has been our contention throughout. I am informed that the amount of work we will have to do in that immediate vicinity, be-

The Court: Does Mr. King say that?

Mr. Bodwell: Mr. King says the Iron Mask vein has all the markings of a fissure vein, and that the Centre Star vein is what is called a shear zone vein.

Now, in order to meet that case, in order to demonstrate altogether what our position on that case would be, it will also be necessary for us to carry on some of the work which is already in existence beyond certain points; for instance, in the 69 east drift, what is called the upper drift of the Iron Mask vein, for instance, in the Iron Mask winze to show that the alleged 45 degree dip in those places is simply the ordinary variation of the Iron Mask vein. We think we can show that both by raising and by continuing drifts past those points; and carrying the ore along to show there is not one vein there but two veins. We would have endeavored to do that work during the progress of the trial, as much of it as we could, as we did not, perhaps, take advantage of the opportunity that we might have had to require particulars of the other side. It seems rather hard in this kind of a litigation, which is new to us all, that we should be put in that position, and practically have a surprise sprung on us at the trial. However, I did not think your lordship would entertain a motion of that kind, with any kind of favor, and we had to take our chances on that; but this work around the Iron Mask winze is a matter of vital importance, and we have always had that in mind, but we did not think it was necessary to do it unless the order was made allowing them to go through, because then and only then would that apparent continuity of vein structure and ore matter be established by the work ginning very close to and all immediately confined to this neighborhood bounded on the west by that No. 4 vertical (indicating on model) and on the west by a line drawn a very short distance from the Centre Star winze in that neighborhood—we expect, in order to demonstrate our theory, we will have to do two or three hundred feet of work right there.

Another thing which I intended to refer to in speaking this morning, but which in the hurry of the moment I forgot: This case was started and as I think on the pleadings, certainly on all the evidence heretofore, has been conducted upon the theory that all the veins in this district were the typical fissure veins. It was shown to your lordship that the vein running out through, what we used to call the Centre Star No. 2 tunnel, was a continuous vein, having walls and a continuity of ore, and all the marks of a fissure vein; and that it was the vein the apex of which had been discovered up here (indicating on the model.) That was the case we expected to meet when we came into court. We have been now, by Mr. King's evidence, shown that that contention is going to be entirely changed, that we will have to meet here the theory of a system of shear zones, extending in indefinite directions north and south, and ore bodies within that zone. Of course, we think that ought to have been pleaded, we think we ought to have had sufficient notice of that, but, however, that is a matter which I need not discuss now. The proof of the existence of those veins of that peculiar character, and that instead of having a fissure vein here, the Centre Star fissure vein going down and joining on its dip with the Iron Mask fissure vein, we now have a statement that the Centre Star vein is a shear zone vein, which comes down and passes through the Iron Mask vein, which is called a true fissure vein, and which is evidenced by the planes and vein structure of the Centre Star vein, near to and crossing the Iron Mask vein at several points.

which they would do.

The Court: Below the seam?

Mr. Bodwell: Yes, and then and only then would it be necessary for us to show these irregular veins below the seam.

The Court: You mean, you thought it was of much more importance to you, in a sense to demonstrate the existence of these irregular veins, to use that expression, below the seam than anywhere else?

Mr. Bodwell: Yes. As it stands now we have the vein cut off here in the Centre Star No. 3 incline. Mr. King himself says it does not go more than five feet below the mud seam; and we intend to show a structure there which demonstrates on the face of things that the vein is cut off there.

The Court: As I understand Mr. King's evidence he said it does not go more than five feet because they have got to the bottom of the shaft.

Mr. Bodwell: Well, no, because at five feet you are a long ways below the bottom of the shaft—some 10 or 12 feet.

Mr. Davis: Of course we do not agree, my lord, with what my learned friend states, but it is very immaterial; it will not bind anybody.

Mr. Bodwell: I am simply stating this now because his lordship asked me to state, and stating it for the information of the court, and to a certain extent I am opening, in a brief and very incomplete way, some of the points on which we expect to rest our case. The reason why we did not do this work up to the present time, was because we thought we had a physical demonstration that our theory was correct. But if this work is continued through, then we know we cannot rest upon that case, that we must, in order to meet the additional evidence which will be obtained by going through the Centre Star winze, that we must meet that by counter-evidence of the same kind, demonstrating by physical conditions the truth or falsity of our theory, and that we have always intended to do. And that, as I say, is work that will occupy a space of considerable time, perhaps 30, 40 or 50 days. I think the whole amount of work I indicated to your lordship will be done in that immediate neighborhood. With reference to the new theory we will have to make, we would like to have a great deal of work done. Of course we could do some of it if the trial was going on, and a great deal of it we intend to do. We will have to crosscut back and forth in places where it is said these correlative planes are found, being the boundaries of the shear zone, and we would have to carry this drift on as we are now doing in this particular territory, showing where that ore now goes, and to show that the apparent 45 degree dip is only one of the things we find in the Iron Mask vein where it varies, it being simply a variation in the dip of the vein itself, and which the planes which are sworn to belong to the vein structure of the Iron Mask vein, and do not belong to anything else; that where there is an apparent difference between two bodies of ore, that that is nothing more or less than what is commonly known in this country as a horse; and that in a country of this kind it must necessarily acquire a certain amount of mineralization, or certain amount of alteration, and so, generally speaking, there is a great deal of that kind of work we will do if the opportunity is afforded. Some of it will do in any event; but this work around the Centre Star winze, and around the region of the No. 3 incline, and that work back and forth in that country there, and raising from these tunnels up in certain places in that neighborhood, by that work we expect to demonstrate this fact by physical evidence, that the flat fault is a permanent obstacle to the continuity of any ore bodies in that vicinity; and that any amount of mineralization that may be found when the work is prosecuted far enough, will also show a local condition entirely and not one of general application. Anything more that I would say on that point would be simply a matter of details.

The Court: I think the statement is a fair one, and I cannot see what possible harm it does you, letting them know it, so that after all there is nothing to divulge.

Mr. Bodwell: In that part of it, no, my lord. I did not expect that, but it is very troublesome, in order to convey correct ideas to the court, if the evidence should go in in a disjointed and confused manner, as it necessarily would go in if there was a cross-examination on an affidavit.

Mr. Bodwell, who then presented an affidavit to support his statement, said that he made "the above statement after consultation with the scientific witnesses, whom the plaintiffs proposed to examine, and I believe that the instructions which I have received from them are true, and that the plaintiffs cannot safely proceed with the trial of this action unless the said work is done."

Continued on Page 7.

DEADLY CATARRH

has fastened its relentless grip upon some member of nearly every family in the land. Competent authorities estimate that from eighty to ninety per cent. of the entire population of this continent suffer from some form of this repulsive and dangerous malady. If you or any of your family suffer either from recognized catarrh or from the lingering colds which mark its early stages—don't trifle with it. It is the precursor of consumption and death.

Dr. Agnew's Catarrhal Powder

never fails. It is the remedy of all remedies, endorsed by the most experienced and eminent nose and throat specialists of the day, and having a record of a multitude of radical, permanent cures of chronic cases which had been declared incurable. It also cures cold in the head, influenza, hay fever, loss of smell, deafness, sore throat, tonsilitis, asthma and all similar diseases. It is delightful to use.

"I have had chronic catarrh ever since the war," says J. C. Taylor, of 210 N. Clinton Ave., Trenton, N. J. "I had despaired of ever being cured. I used three bottles of Dr. Agnew's Catarrhal Powder and my catarrh has entirely left me." Rev. C. E. Whitcombe, rector of St. Matthew's Episcopal Church, Hamilton, Ont., was a great sufferer. He used Dr. Agnew's Catarrhal Powder, and now proclaims it a safe, simple and certain cure. The Lord Bishop of Toronto, Can., recommends the remedy over his own signature. Sold by druggists.

Dr. Agnew's Cure for the Heart relieves heart disease in 30 minutes. Dr. Agnew's Liver Pills—20c. for 40 doses—are the best. Dr. Agnew's Ointment relieves in a day eczema, tetter and all skin diseases. Cures piles in 2 to 5 nights. 35c. 2

For Sale by Goodeve Bros.

Certificate of Improvements.

NOTICE.

Red Fox mineral claims, situate in the Trail Creek mining division of West Kootenay district. Where located: About three miles east of Rossland, B. C., on the line of the Columbia & Western railway.

Take notice that I, Wm. E. Devereux, acting as agent for W. B. Townsend, free miner's certificate No. 33,533A, intend 60 days from the date hereof, to apply to the mining recorder for a certificate of improvements, for the purpose of obtaining a crown grant of the above claim.

And further take notice that action, under section 37, must be commenced before the issuance of such certificate of improvements.

WM. E. DEVEREUX, P. L. S.

Dated this 18th day of March, 1898. 3-23-11t

Annual Meeting.

Notice is hereby given that the annual stockholders' meeting of the Lucky Boy Mining & Development company, limited liability, of Rossland, B. C., will be held at the company's office in Rossland, B. C., on Monday, May 22, 1899, at 7 p. m., for the election of officers for the ensuing year and such other business as may come before it. Dated April 26, 1899.

d&w-1t W. L. McDONALD, Secretary.

Certificate of Improvements.

NOTICE.

Ruth Fraction mineral claim, situate in the Trail Creek Mining division of West Kootenay district. Where located: On Sophie mountain, south of the Victory-Triumph mineral claims.

Take notice that I, Kenneth L. Burnet, (as agent for the Ruth-Esther Gold Mining company of Spokane, Wash.) free miner's certificate No. 34063A, intend, sixty days from the date hereof, to apply to the mining recorder for a certificate of improvements, for the purpose of obtaining a crown grant of the above claim.

And further take notice that action, under section 37, must be commenced before the issuance of such certificate of improvements.

Dat d this thirtieth day of March, 1899.

3-30-1ot. KENNETH L. BURNET.

J. B. Johnsno & Co.

16 COLUMBIA AVENUE.

Bargains for Today:

Choice business property on Columbia avenue; well rented; $4,500.

House and lot on Cook avenue, $700. House alone cost the money.

Twelve-room house and lot, furnished close in, $1,200.

Choice corner on Columbia avenue at a bargain.

C. J. WALKER,

No. 24 COLEMAN STREET

LONDON, E. C.

London Agent for the Rossland "Miner.

Receives advertisements of all kinds for English press at lowest rates. Contracts at special prices. Send for C. J. Walker's Guide to the British Press, giving various charges of the leading papers Price 25 cents.

THOS. S. GILMOUR

Accountant

Mining Agent

Stocks and Shares

Cable Address— "Whitehall" Code— Bedford McNeill

P. O. Box 88

16 Columbia Ave - ROSSLAND

Happily Married.

There was a very pleasant wedding yesterday evening at the residence of Mr. and Mrs. J. W. Westfall, on Columbia avenue, Rev. H. Irwin officiating. The happy man was A. J. Long of this city, and the bride was Miss P. A. Mole of Birkhamstead, Herts, England. Fred Woolley of the Miner office, was best man, and Miss V. M. Westfall was the bridesmaid. Among the guests were Mr. and Mrs. J. E. Taylor, Mr. and Mrs. M. R. McQuarrie, Mr. and Miss Watson, Mrs. Treman, R. S. Lyon, J. M. Miller, J. Smith, O. B. N. Wilkie, and Mr. Street. An elegant wedding supper was prepared and was heartily enjoyed by all all the guests. Mr. and Mrs. Long will make Rossland their home.

Back From Britain.

S. L. Long, C. E., P. L. S., and Mrs. Long, are back again from a four-months' trip to the old country. When away he spent his time in London and at his home in the South of Ireland. In London he met several Rosslanders. He says they are commencing to look favorably on British Columbia in London, and although there will be no boom rush of English capital here still it will come steadily. The rise in the Le Roi stock has been a good feature, and British Columbia is being favorably talked about. Mr. and Mrs. Long enjoyed the trip.