

tween my learned friend and myself—at least my learned friend spoke to your Lordship of an adjournment until Thursday, that the work should be going on in the meantime, that the trial Judge has a discretion to do that, he has the discretion to make any order about the doing of actual work which will tend to elucidate any particular point. Now, what I say is this: it is utterly immaterial whether the material before your Lordship is the same.

The Court—It does not say that in the judgment there.

Mr. Davis—It does not say it.

The Court—It does not say that he has discretion to make any order that will elucidate any particular point that may embarrass him; that is the point.

Mr. Davis—Yes, that is what it says; not in those exact words, but almost in these exact words: "I think it should be left to the Judge at the trial to state whether or not actual work should be done for the purpose of elucidating any particular point with regard to the issues raised.

Now, I don't know any way in which that question could be left more broadly to your Lordship. It seems to me, with all deference to my learned friend, it is a queer sort of a contention to make that the Full Court decided that no order can be made for work to be done, and wound up the judgment, and the only definite thing they did decide was that the whole thing should be left to the trial Judge, and if he thinks it necessary, or thought it necessary, to order any particular work to be done, for the purpose of elucidating any point, it should be left to him to do so. Now, English is plain when it is plain, and this is about as plain as any language could be that they could use. The application was a general application for doing work—running tunnels and so on—which would pass through the vertical fault and the flat fault. There was no specific point mentioned. It was a general application to do experimental work for the purpose of having evidence for the trial. Now, that was the application. My friend says it is not going to be a question of opinion, but a question of credibility of the witnesses. That clearly cannot be so.

The Court—No; that cannot be so.

Mr. Bodwell—I don't know why my learned friend cannot understand my argument. What I said was this, that it does not necessarily follow that it is going to be a question of credibility of witnesses, and that is what the Full Court says.

Mr. Davis—We will take it that what my friend said was that it does not necessarily follow that it is a question of opinion, but that it may be a question of the credibility of witnesses. That is what he says now.

The Court—I know something about this case, and could almost express an opinion about it now on pretty nearly what I said on a former occasion: Twenty affidavits on one side, sixteen on the other; these gentlemen of such standing on either side, and on both sides, for that matter, that to impeach their evidence—

Mr. Davis—And the explanation of it is, that they are swearing to what they think, and not what they saw, and if we run the work through we will do away with that. My learned friend said the effect of it was this, that we would not be in a better position after we have gone through that, it would still be a question of the credibility of the witnesses. That cannot

be, because they will then be swearing to what they see instead of drawing inferences from what they see outside as to what is in that fifteen feet; they can go in and afterwards swear to what they saw in that fifteen feet.

The Court—Has anything been done in the ground since I made my decision? There was no point mentioned or specified at which it was suggested work should be done, or which it was asked that an order should be made to allow work to be done. This application is a specific application to do that certain work at a certain point, to have fifteen feet of a winze sunk. I submit that it does not make a particle of difference whether the material is the same here as it was there or not—although it is not the same. We do come exactly within the language that Mr. Justice Drake used—I don't care whether it could have been inferred from Mr. Hastings' former affidavit—that the facts were as they are now shown to be by his present affidavit or not, because Mr. Justice Drake did not so consider it, and the proof of that is in his own language, and the judgment in which he said this: "If they had actual evidence of a vein both above and below a certain spot, and sought to explore the intermediate ground, they would have a stronger case." Mr. Justice Drake did not seem to think, evidently did not think, that the case is such as it is shown to be in Mr. Hastings' affidavit that we have read to-day.

(To be Continued.)

## THE MONTH'S MINING.

### SHOAL BAY.

(From Our Own Correspondent).

THERE is very little news mining this month (January) to record from this district, practically nothing having been done with an exception of a prospect tunnel driven on the Monte Cristo, which disclosed the lead previously worked on the Bonaparte. It is rumored that the Ajax has been bonded, the figure mentioned being \$25,000. The tram-line and all machinery is shortly to be taken away from the Dorothea Morton. It might also be mentioned that a mining expert representing Mr. Rockefeller of Standard Oil fame, recently visited some of the mining properties of this district.

### KAMLOOPS.

We are requested to state that for reasons of a purely personal character, Mr. W. C. Nichol has withdrawn from the vice-presidency and directorate of the Copper Mines, Limited, of Kamloops.

### BOUNDARY CREEK.

As the review of the year's progress in this district published in the January number of the MINING RECORD had to be written in December it was not practicable to then supply the following comparative statement showing the statistics for the years 1898 and 1899 respectively of the Kettle River Mining Division. These figures having been obtained at the office of the Mining Recorder, Midway, are accurate. They exhibit the mining records and revenue as under:

	1898.	1899.
Free miners' certificates .....	700	1,467
Free miners' certificates, special .....	...	12