

of mineral character under the land (so far as the evidence shews) is the rock oil and petroleum gas. . . .

[Reference to MacSwinney on Mines, 3rd ed. (1907), p. 10; Lord Halsbury's Laws of England (1908), vol. 3, p. 177; Lord Provost and Magistrates of Glasgow v. Farie, 13 App. Cas. 657, at p. 675; Encyc. of the Laws of England, 2nd ed. (1908), vol. 9, p. 237; Midland R. W. Co. v. Robinson, 15 App. Cas. 19, 26, 27.]

There is no doubt that these extensive beds or chambers containing rock oil and natural gas may be regarded as "mines of minerals," in the comprehensive sense of that term. . . .

[References to the testimony at the trial, the correspondence of the Canada Company, the history of the oil and gas development in Western Ontario, etc.]

The evidence given before me justifies the adoption of the excellent description of operating given in the judgment in *Wetengel v. Gormley*, 160 Pa. St. at p. 567: "It is well understood among oil operators that the fluid is found deposited in a porous sand-rock, at a distance ranging from 500 to 3,000 feet below the surface. This rock is saturated throughout its extent with oil, and when the hard stratum overlying it is pierced by the drill the oil and gas find vent, and are forced, by the pressure to which they are subject, into and through the well to the surface. After this pressure is relieved by the outflow, the wells become less active. The movement of the oil in the sand-rock grows sluggish, and it becomes necessary to pump the wells in order both to quicken the movement of oil from the surrounding rock, and to lift it from the chamber at the bottom of the well to the surface. An oil or gas well may thus draw its product from an indefinite distance, and in time exhaust a large space. Exact knowledge on the subject is not at present (1894) attainable, but the vagrant character of the mineral and the porous sand-rock in which it is found, and through which it moves, fully justify the general conclusion . . . and have led to its general adoption by practical operators."

In the first stage of exploiting the petroleum fields, oil was the primary and indeed the sole object of search, and the gas with which it was charged was a negligible concomitant. The gas when liberated became the expansive power which raised the oil up to or towards the surface, and, having rendered that service, it was disregarded as undesirable and unmanageable. . . .

[Further references to the evidence, correspondence, etc.; also reference to *Lewis v. Fothergill*, L. R. 5 Ch. 111; *Lord Rokeby v.*