

APPENDIX No. 5

Mr. CONGDON.—We are getting into one of the most difficult fields of law and mining. In England the law is well defined. Any grants of the land and separate grants of the mining under the lands must be so worked, that is to say, the mine owner must work his and the surface owner must work his so as not to work mutual injury. In the territory spoken of by Mr. Herron, in the agricultural lands of Alberta, even if you discovered an enormous mine that mine would scarcely exceed in value the surface. In California they have, I understand, prohibited dredging because in dredging they were injuring the surface, and they are only allowed to dredge if they restore the soil and leave it for agricultural purposes as before. There are other territories, Cobalt and Gowganda perhaps where it makes no difference if you destroy the surface or not. You have got to make the greatest difference between first-class agricultural land and land which is of no use whatever. In the Yukon Territory this is provided for in our Act. A person can stake a claim either on Dominion land or on ground occupied by any person except where there is a dwelling or where it is occupied by some other person for mining purposes. Take the ordinary land which a man has for agricultural purposes. If you want to transfer it you have to give security. It is a great field and it seems to me that the only way of properly treating it so far as Dominion lands are concerned is to treat the two, the reservation and the patents under the Mining Act which operates for that. Of course it is easy enough to criticize the past when not enough was known, but one of the difficulties in former times was that the patent made a reservation or the mining regulations or Acts were made without reference to this reservation. Now one of the most important things we could do would be to consider the question of reservations and to pass our mining laws purely in reference to mining lands, but it will be very hard to find one that will apply to all parts of the country.

The CHAIRMAN.—I think that in any law that is adopted by the Dominion the different sections of the country having regard to the formation and other local conditions will have to be recognized, and the Act will have to apply under different heads. I assume that that would be necessary owing to the very varied character of our mining and to the very great extent of country over which it is spread. I think there is no doubt that we will have to recognize local conditions that exist in one section of the country and do not exist in another.

Mr. WM. CHISHOLM.—It would be better, however, to have the administration of the mines left with the local legislatures. They would be in a better position to judge of local conditions.

The CHAIRMAN.—The administration of mines is vested in the local legislatures in the provinces that form the confederation, but in those provinces that have become part of the Dominion since confederation the mines and minerals are vested in the Dominion.

Mr. CONGDON.—In some cases it is better because you secure uniformity over a large area.

The CHAIRMAN.—Of course it is an important question with the provinces that entered confederation because the mines are a source of revenue to them. They entered confederation reserving to themselves the mines and minerals and so on while the other provinces, such as Manitoba and Saskatchewan, have been created by a federal authority and have no such vested rights.

Mr. JOHN HERRON.—I cannot understand why this committee should waste its time dealing with the provinces that own and control their own minerals.

The CHAIRMAN.—We are only proposing to deal with mines over which the federal authority has jurisdiction. We do not propose to deal with the rights of the provinces at all.

Mr. W. R. SMYTH.—We will endeavour to get such an Act as the provinces would perhaps accept.