

MINING.

Mineral samples sent to the CRITIC office, accompanied by a fee of one dollar, will be submitted to a thoroughly competent assayer for a preliminary examination and slight test of contents. The results will be communicated to senders of samples, and if full assays are deemed advisable, they will be notified and instructed as to amount of fees to be remitted.

COAL LEGISLATION.—At this writing the coal bill has passed its third reading in the lower house, and has been sent to the Legislative Council. Mr. Cahan as leader of the opposition has had a disagreeable duty to perform in opposing the bill, as many of his own party are interested in its passage. As an outcome of his efforts the clauses in the bill relating to royalty have been placed beyond dispute by a declaratory clause, and a similar clause has been passed on the subject of municipal taxation. In safeguarding the interests of the people Mr. Cahan has been able, eloquent and fearless, and has done well in the two instances above quoted, but in raising the point and proclaiming it through the press, that all leases granted by the Province would terminate eighteen months after the demise of Queen Victoria, Mr. Cahan has done tremendous injury to our mining interests, and struck a blow at every owner of a mining lease in the Province. He has committed a crime against the public that proves him too rash to safely lead, and a wiser, if less eloquent, head should be called on to marshal the opposition forces. If there had been anything in Mr. Cahan's contention, it is a matter he should have approached almost with bated breath, and both parties should have united in speedily and quietly petitioning the Crown for such legislation as might be deemed necessary to place matters right, but as will be seen elsewhere he was entirely in the wrong, as leases granted by the province in the name and under the authority of the Queen, are irrevocable for the whole term, so long as their conditions are complied with the only possible point affected being the future disposition of the royalties.

LESSEES OF NOVA SCOTIA MINES NEED NOT BE ALARMED AT MR. CAHAN'S BUGABOO.

THE ACT OF 1849 DOES NOT AFFECT THEM IN ANY WAY.—OPINIONS OF EMINENT LAWYERS.

As the leader of the opposition, both in the house and through the columns of the *Herald* and *Mail*, persists in libelling the titles of mining leases in this province, by the contention that the province's rights in the mines and minerals of Nova Scotia will, under the Act of 1849, cease and expire eighteen months after the death of Her Majesty, thus annulling all existing leases, we have determined to forever set this question at rest, and consequently have interviewed a number of leading barristers and other authorities on the question, and their opinions, which follow, prove beyond doubt that there is absolutely nothing in Mr. Cahan's contention.

It has, however, been wired abroad to the undoubted great injury of the mining interests of the province, and equal publicity should be promptly given to the complete refutation of his untenable position.

The poison is now doing its work, and the antidote should be administered at once.

In pursuance of our purpose we first proceeded to the office of Messrs. Ross, Sedgwick & McKay, and interviewed Mr. Wm. B. Ross, Q. C., of that firm, and one of the legal advisers of Messrs. Whitney and Kidder, Peabody & Co. Mr. Ross is a very busy man, and with a very few introductory words, he gave his opinion as follows:

OPINION OF W. B. ROSS, Q. C.

"To get at the bottom of this question we have to go to the Constitutional History of England, and it will be found on reference to Sir Erskine May, Book I, Chap. 4, or Taswell Langmead, Chap. 17, that the sources of revenue in England in early times came under two general heads—Royal revenues—the most important being land, and from these royal revenues the kings of England defrayed the costs of government. When these fell short they summoned the Commons together and got subsidies voted. These taxes imposed by the Commons were the other source of revenue.

The revenues derived from all crown sources are now thrown into one fund, called the consolidated fund of the United Kingdom. The Queen, by Chap. 2 of the Imperial Acts of 1837, surrendered all her royal revenues to the parliament of Great Britain. Out of them she receives £387,000 for the support of the royal household, while parliament disposes of the balance for the purposes of the government. This surrender of the royal revenues began as early as the reign of Queen Anne, and has with certain modifications been made on the accession of every sovereign since. The whole of the crown revenues were not surrendered until the reign of George III., the assignment by Queen Anne, George I. and II. being only partial. Further, the surrender made by each sovereign has only been for his or her life.

The act by which Queen Victoria surrendered the royal revenues provides that it shall continue for six months after her death, and within that term her successor is required to elect what he will do.

This is what Taswell Langmead says on this subject:

"The surrender of the crown lands to be disposed of by parliament, like the other revenue of the state for the public service, begun by George III, and now "by a custom as strong as law"—repeated by each sovereign at the beginning of his reign—is one instance, among others, of the return in modern constitutional usage to the simpler principles of the older constitution."—*Taswell Langmead, Con. Hist. 1. 709 (2nd. Ed.)*

We will see then that in England, instead of the sovereign taking any part of the revenue and paying any of the expenses of the government, Parliament takes all the revenue, gives the sovereign an annual allowance, and pays all the expenses of the government.

It is an admitted principle of constitutional law, that where a colony is granted legislative powers, that the same relation exists between that legislature and the crown, as exists between the Imperial Legislature and the crown.

Prior to 1849, the royal revenues in Nova Scotia were not under the control or at the disposal of the Assembly, although the other revenues were, hence the struggle for what was called responsible government. Members of the Assembly claimed that the lands and minerals had never been reserved by the crown, and that the pretences made by the Governor to collect and dispose of revenues arising from those sources were acts of usurpation. But, on reference to lawyers in England, it was found that the contention was unfounded. The agitation ended in a contract made between the Queen and the Legislative Assembly of Nova Scotia, which is embodied in Chap. I of the acts of 1849.

By this act in substance, the Queen surrendered all the royal revenues in Nova Scotia into the control of the Legislative Assembly, in consideration of which the Legislature has ever since provided for the expenses of Government. This act is to remain in force eighteen months after her Majesty's death, and will no doubt be renewed on the accession of a new sovereign, just as it will be in England for the reason assigned by Taswell Langmead.

I might say that after the passing of Chap. I of the acts of 1849, it was found that the leases made to the Duke of York previous to 1849 covered the greater part of the coal mines of the Province, and a contest began between the Legislature, the Crown, the representatives of the Duke of York, and the General Mining Association, which was ended by the transactions of 1857 and 1858. In those years negotiations were begun and ended, under which the lease to the Duke of York, which had been excepted out of the surrender made by her Majesty to the Nova Scotia Legislature in 1847, was surrendered, and a new lease issued to the General Mining Association of a more limited area, and terminating in 1886.

Since this time (1858) the Legislature of Nova Scotia has passed acts which have been assented to by her Majesty for the management and disposal of the crown lands, mines and minerals of the province.

The leases given by the Government of Nova Scotia are made in the name of her Majesty as represented by the Commissioner of Works and Mines, and reserve a royalty payable to Her Majesty, her heirs and successors. The title to the mines is without controversy, either in the Queen or the Province of Nova Scotia or in both. Both being parties to the leases of mines, lessees have an undoubted title to the areas covered by their leases for the number of years mentioned therein. If Queen Victoria died tomorrow, this title would be untroubled. All that would be needed would be a statute passed with the assent of her successor, vesting the royalties received under the leases in the Legislature of Nova Scotia. For the reasons given above, the passage of such an act and the assent thereto would be a matter of course.

Lessees may therefore make their minds easy, for they cannot become in any way involved in the controversy."

"But" we asked "suppose the crown did not assent?"

"That" replied Mr. Ross "would mean that Howe's great achievement of responsible government would be lost to the province. It would mean anarchy both in England and in every one of her colonies. It is not possible to suppose the refusal of such assent."

"Then you hardly think that Howe and Young, and Johnston and Archibald bent their united energies to make a settlement which, according to Mr. Cahan, was liable to be defeated in twenty-four hours by the death of the Queen?"

"No—There is no doubt but that they regarded the settlement as permanent, and it is incredible that they should have had any other opinion as to the result of their great efforts on behalf of their native provinces."

"Is not this last attack on mining titles, although you have shown its absurdity, liable to damage the mining industry here?"

"It is my opinion that to trample the title of the province to the mines and minerals is to injure every dollar of stock in every existing mine and to handicap all further development of the mines."

These things are easily answered at home, but the fears of a foreign investor are not to be quieted with equal facility. It may be that Mr. Cahan's objection has already done irreparable harm. It is known now that it has done some damage, but to what extent time will have to tell."

Mr. Ross explained that he could furnish authorities for all the points enunciated, but refrained, as they would only encumber an interview intended for general readers. We quite agreed with him, and thanking him for his able and lucid statement of his opinion, which is right beyond cavil, we bid him good day and passed out.

OPINION OF HUGH McD. HENRY, Q. C.

After interviewing Mr. Ross we called on Hugh McD. Henry, Q. C., President of the Nova Scotia Bar Society, and found that he had but a moment to spare. On making known our object he stated that he had joined with Mr. Ross in the opinion that there was nothing whatever in the point raised by Mr. Cahan under the act of 1849. To go into all the reasons would hardly be politic, as numerous issues of a most important nature would have to be touched upon and explained. To support the views taken by the leader of the Opposition would simply mean an attack on the stability of the British Constitution, and to claim that all mining leases in Nova Scotia would be forfeited eighteen months after the death of the Queen—such a contention was simply absurd.

Calling on C. Sydney Harrington, Q. C., Vice President of the Bar Society and senior member of the firm of Harrington and Chisholm, we found that he had on other occasions considered the matter, and at the request of THE CRITIC, he prepared the following written opinion.