

nification at law. The word in this application and its evident use in the B. N. A. Act is limited by the ordinary use and signification of the term. In its large or general sense the word "royalty" signifies all that belongs to the sovereign; in its colloquial sense in the English language, "royalty" means all that pertains to the royal person, dignity, rank and prerogative. In the legal sense it arose in this way; we know that in England, no man who may be the owner of the soil, still under the law of England the royal mines mean those mines of gold and silver belonging exclusively to the sovereign, and the fact that the owner of the soil may have the fee simple in the land does not give him any right or claim to the gold or silver mines on his estate; those belong to the sovereign, and when grants were made either to the owner of the soil or to strangers, the Crown was in the habit of claiming and insisting upon an annual compensation, or a compensation as to quantity, which in either case was called the "royalty," and was a recompense to the sovereign for handing over that portion of the royal mines. Hence the expression "royalty," and this expression has been extended to every kind of charge of that nature, whether by the sovereign or by the owner of a mine of any kind, whether of gold or silver, or of iron, of copper, or any other mineral whatever. The word has come to be applied to the rental, charge, or compensation made for the use of a mine. I say, therefore, that this word "royalty" was evidently so used in the British North America Act."

That is the opinion of a distinguished statesman, and one who has been conversant with legislation and political affairs in this country for a great many years; who was chairman of the convention which planned, elaborated, and finally succeeded, with the co-operation of the Imperial Government, in carrying through the Imperial Parliament the Confederation Act—that is an opinion which I venture to say is entitled to great weight even in a court of law. My learned friend who, as Minister of Justice, acquiesced in the decision of the Quebec Court, will contend, I presume, that their interpretation of the word "royalty" is according to the intention of this Act, or that because the word happens to be found there, your lordships may by a large construction make it cover the royal prerogative of escheats. I submit that even if the word is capable of that meaning it cannot be held to include the hereditary revenues from escheats, if by a consideration of the whole Act it is clear that it was not intended—

JUDGE HENRY—Your position is that if the word "royalty" could cover something else it does not cover escheat?

MR. MACDOUGALL—We say that the word "royalty" has some meaning there. We say it refers to the rents or charges for mines in Nova Scotia and New Brunswick. There were none reserved in Ontario and Quebec. Those who are familiar with the preliminary stages of the Bill, are aware that the word "royalties" was inserted after the first draft, at the suggestion of gentlemen from Nova Scotia and New Brunswick, lest these rents or sums payable to the Crown under the name of "royalties" should be held not to be included; and thus the word was added. By the well known maxim *noscitur a sociis*, you are to interpret words of this kind by reference to those with which they are associated; and according to the doctrine also that the prerogative rights of the Crown cannot be conveyed or granted unless by express words,