

It has been decided in *Earl of Cardigan vs. Armitage*, that the right to enter and work mines, is *necessarily* incident to a grant of mines, without any express authority for that purpose, and that this power cannot be restrained by a special power given in the *affirmative*, which may authorize more acts than would be implied by law, but which will in no way exclude the full operation of the law.

This case established the right of the Crown to enter the lands of a subject, to search for and work mines, and also to convey that right to others, and further that the *owner of the mines*, when they formed a distinct inheritance and possession, was entitled to work them, *without the concurrence of the owner of the surface*.

The Canadian patents which we have seen, all contain the reservation of all gold and silver mines, and also express right of entry, and to use and make roads, and to divert rivers.

Under the French crown, the civil constitution of Canada was established on the feudal system, and at the time of the introduction of the Custom of Paris, previous to subinfeudation, both the *dominium directum* and *dominium utile*, were in full demesne in the seignior. Previous to the arrêt of 6th July, 1711, known as the edict of Marly, the concession of lands to *habitants* was not obligatory on the seignior, but it was then made so. The effect of the edict was to divide the estate between the seignior of the fief, and his subfeudatory or *censitaire*, in such manner as to retain to the former the immediate demesne, and to convey the useful demesne to the latter. The immediate demesne consisted of the duties or dues, obligations or redevances, to which the *censitaire* was subjected, such as *foi et homage*, and the *cens et lods* imposed by the seignior. The useful demesne consisted in the product of the soil, which the *censitaire* had the