

eighty-one, that dedication is a model of propriety and grace. In the same year in which he dedicated a political work to the Queen of England he dedicated a scientific work to the University of Edinburgh, which selected him for its Chancellor in 1860. That volume contained treatises upon mathematics and physics, written between 1796 and 1858, upon the most various subjects—general theorems of geometry, problems of Kepler, dynamic principles, the differential calculus, the architecture of the cells of bees, analytical and experimental researches into light, the attraction of forces, and lastly, the admirable speech which he delivered at Grantham, upon the occasion of inaugurating the monument to Sir Isaac Newton." After describing the residence at Cannea and the industrious and learned life which Brougham passed there during many winters, and where he died on May 7, 1868, M. Mignet thus summed up his estimate of his character:—"Henry, Lord Brougham, belongs to the number of the great men of his time and of his country. Endowed with extraordinary genius, possessed of vast knowledge, gifted with brilliant talents, animated by incomparable ardour, he devoted the thoughts of his mind, the enthusiasm of his soul, the resources of his knowledge, the brilliancy of his talents to the service of the noblest causes—to the progress of justice, of law, of intelligence, of humanity.

A Reformer without a chimera, a Conservative without a prejudice, he never separated, either in his writings or in his actions, what was expedient from what was right, and it was his pride to keep in accord the free advancement of men and the moral order of society.

He was also the defender of political liberty, the persuasive advocate, of civil equality, the zealous promoter of public education, the eloquent supporter of human emancipation. Illustrious by his works, memorable by his services, Lord Brougham must be counted among those great men who honour the country whose glory they sustain, who maintain what is right and strengthen what is good, and who, by the brilliancy of their talents and the generosity of their souls, are held by posterity in everlasting esteem."—*Law Journal*.

RAILWAY GRANTS.

The construction of railroads as aids to the settlement of our public lands is an enterprise of the highest national importance, and as such ought to receive from the community and from the Government all the assistance which they can command. Every person must have seen with satisfaction the liberality with which our rural and urban municipalities have subscribed to the stock of the various companies now in process of organization or which are already pushing on the construction of new lines. The Provincial Legislature has resolved to insure the success of these enterprises by granting to them large tracts of the public lands. Are these grants constitutional?

Such is the question to which the writer purposes to draw public attention. This point of constitutional law would have been raised more opportunely before the incorporation of these companies; but it cannot be denied, even at the present time, that it is one of great practical importance. If the success of the present railway movement depends in great measure on the grant of those public lands; if the money votes of the municipalities have been given on the faith of these grants, it becomes necessary to ascertain that their legality cannot be called in question. If the constitution is defective in this respect, it must be amended, not violated. The following opinion is published only after a full discussion in the editorial committee of the *Revue*, and after having received the approbation of several *confères* of the Montreal Bar.

By the common law, all the public lands are the property of the Crown. It was formerly a disputed question whether the Kings of England had the right to alienate the Crown Lands. In course of time the Kings certainly exercised the right of granting the Crown Lands at their pleasure. But the exercise of this prerogative having greatly impoverished the Crown, it has been restrained by several modern statutes.*

In the Province of Canada previous to 1867, the public lands were the property of the Crown for Provincial purposes and subject to many restrictions enumerated at length in chapters 22, 23 and 24 of the Consolidated Statutes of Canada. Certain free grants could even be made by the Governor in Council. As to the Legislature, its power over the public lands was unlimited.

Under the British North America Act of 1867, the tenure of the public lands has undergone very large modifications. The ownership is vested in the Dominion or in the Provinces according to the nature and situation of the property. With regard to the Dominion, section 108 declares that "The Public Works and Property of each Province enumerated in the third schedule in this Act, shall be the property of Canada." This property comprises the canals, public harbours and fortifications, and others of alike nature.

The right of ownership in the Dominion of this property is absolute and free from all restriction. Section 91 enacts that the exclusive legislative authority of the Parliament of Canada extends to certain matters therein specified and particularly to "the public debt and property."

Is it thus with the right of ownership vested in the several Provinces? Section 109 declares: "All lands, mines, minerals and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due and payable for such lands, mines, minerals and royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, in

* 5 Cruise's Dig. 46. 2 Greenleaf on Real Property, 39.