

In case of a dispute the matter is decided by the Commissioner of Crown Lands, according to what Chancellor Vankoughnet, who had filled the office with great ability, aptly designated Crown "Lands Law."

The facts are proved usually by affidavits more or less true, sometimes by *viva voce* evidence more or less false.

To illustrate how binding the obligation of an oath is considered, I may mention the case of affidavits filed in the Crown Lands Department at Toronto, to comply with the old regulations requiring agricultural lands to be fenced before Patents issued. It was the case of an officer who had a supreme contempt for the snake fences of Ontario, he and a military friend fenced round the land desired with swords after the most approved Aldershot style. Then he put in an affidavit that he had fenced round the land, and his friend swore that he was disinterested and was personally aware of the fact.

There is no appeal to the courts from the decision of the Commissioner which is usually final.

But the courts have jurisdiction to repeal and avoid letters patent issued erroneously or by mistake or improvidently or through fraud.

There is a provision for encouraging prospectors by giving to the first discoverer of minerals a free grant of a location of forty acres where the vein, lode or other deposit is not less than five miles from the nearest known mine. There is also a provision allowing prospectors to stake out locations in unsurveyed territory under regulations, where the Commissioner of Crown Lands is satisfied that the lands have no value for pine timber, and the prospector under this staking clause may hold the locations for a period of two years, subject to an expenditure of \$3.00 per acre in the first year, and \$7.00 per acre in the second year for actual mining work, after which he is required to complete his application as provided in the case of ordinary lease or sale of a mining location.

In the case both of patents and leases \$1.00 per acre has to be expended during the first two years, and not less than \$1.00 per acre during each remaining year of a period of seven years, or in all \$6.00 per acre during the first seven years after the issue of the lease or patent.

It is also important to know that at the expiration of ten years the lease is convertible into a patent, or the lessee may at any time during the term upon payment of all rent due and performance of all other conditions become the purchaser. This part of the Act also provides for the case of one of several co-owners failing to contribute his proportion to the expenditure required under the Mines Act.

Where an owner of land has only the surface rights, the Department may sell the mining rights, and the owner of the mining rights may then work subject to payment of compensation to the owner of the surface rights. In the case of failure to agree on this the compensation is ascertained by the Director of the Bureau of Mines.

After the patent of mining a location is obtained the property is then subject to the jurisdiction of the Ontario Legislature, to which is granted by the British North America Act exclusive jurisdiction over property and civil rights. The Province has also power to deal with all matters of a local or private nature in the Province, and also to levy direct taxation within the Province in order to the raising of a revenue for Provincial purposes. Under this authority Part 4 of the Mining Act has been passed adopting certain mining regulations.

These are substantially adapted from the English Metalliferous Mines Act of 1872, as amended by subsequent English legislation.

The authorities are collected at p. 274 et seq of The Law of Mines in Canada.

The person working the mine is also subject to the jurisdiction of the Parliament of Canada as defined by the British North America Act.

The only headings of Dominion jurisdiction to which it is necessary to refer are: (Sec. 91)—

s.s. 2. The regulation of trade and commerce.

s.s. 3. The raising of money by any mode or system of taxation.

s.s. 24. Indians and lands reserved for Indians.

s.s. 27. The Criminal law.

The Dominion Parliament has the power to impose export duties, but the Provincial Legislatures have no such power either directly or indirectly.

Suppose the title to a mining property has been acquired and it is desired to form a company for the purpose of working the property, the Provincial Legislature has power to make laws for the incorporation of companies with Provincial objects. By reason of the grant of the residuum of legislative power to the Dominion by the British North America Act, the Dominion Parliament has power to legislate with respect to the incorporation of companies having other than provincial objects. If therefore, the company desire to mine in more than one Province, they may obtain a Dominion charter. If however, power only to mine in one Province is desired, then the charter should be obtained in the Province.

In the case of a Dominion or other extra-Provincial company a Provincial license is required.

The incorporation of the company is obtainable under the Ontario Companies' Act and the Supplementary Act known as The Ontario Mining Companies' Incorporation Act. This Act defines the powers obtainable by mining companies and contains elaborate and complicated provisions in regard to the stock and shares and the sale and disposition of them. Such companies also come under the stringent provisions of the Act respecting Directors' Liability. There would not be time to discuss the various provisions of the Acts which at the peril of the parties concerned must be carefully attended to. It is extremely desirable that the whole question of Company law should be carefully considered, and a comprehensive statute passed governing all companies. The subject has recently received great attention in England, and the law there is certain to be put on a definite basis within a short time.

In regard to the whole question of mining law it is a matter of congratulation that it is largely statutory.

The Crown Lands Department have of course extensive rights in regard to dealing with the Crown lands which are substantially the property of the Province, but the power to interfere with the mining industry by regulation is properly very much restricted. There is a general power to make regulations given by Section 7 of The Mines Act, but this section clearly limits the power to interfere by Order in Council to very definite subjects which alone may be properly regarded as subject to executive action.

The most elementary principles of the British constitution require that no man's rights can be affected by Order in Council, unless the authority to make such Order in Council has been delegated by legislative authority.

One of the greatest living authorities on Jurisprudence, Sir F. Pollock, states as the criteria of just laws in a civilized community Generality, Equality and Certainty; these three, but from the standpoint of the Mining Industry, the greatest of these is certainty.