

OWNERSHIP
OF MINES.
SEIGNIORIAL
ACT. SEIGNIO-
RIAL COURT
and its Judg-
ment.

The same.

mines, contained in the Original Grant to *de la Gorgendière*, and quoted by the Plaintiffs at P. 27 of this Factum, is a reservation of the mines or it is not; if it is a reservation of the mines, it is a right that should have been valued under section 5 of the act, and was abolished, and should have been deducted as abolished, under sections 17 and 18 of the act, from the Seignior's rights, in order to ascertain the exact amount of the capital of the *rente constituée* due by the *censitaire* for the perfect redemption of his soil from all burthens whatever; but, if on the other hand, that injunction to give notice contains no reservation of the mines, then, as we assert under the decision of the Seigniorial Court, did the mines pass to the *censitaire* with the sub-grant made to him by the seignior, long before the issue of the *DE LÉRY Patent*. "Indeed such is the decision of the Seigniorial Court, in answer to the 39th Question submitted to that Tribunal by the Law-Officer of the Crown under that act, as found reported at P. 79 (a) of the *Lower-Canada Reports* of 1856, vol: A.

Sec. 256.—The 39th Question runs thus :

"In various deeds of concession of lands held *en roture*, covenants are found tending to establish, in favor of the Seigniors, reservations similar or analogous to the following, viz :

- "1^o A reservation of timber for the building of the manor-house, mills and churches without indemnity.
- "2^o A reservation of firewood for the use of the Seignior.
- "3^o A reservation of all marketable timber.
- "4^o A reservation of ALL MINES, quarries, sand, stone and other materials of the same kind.

&c., &c., &c., &c.

"Were these reservations, or any and which of them, legally made, and do they give the Seigniors a right to be indemnified for the suppression of them to BE EFFECTED by the said Seigniorial Act."

It will thus be seen that the question was fairly and squarely put to the Seigniorial Court, as to whether A reservation of mines could legally be made by the seignior, or in other words, whether in making the sub grant the seignior could legally withhold from the tenant the mines contained in the land. Moreover the question acknowledges in the most positive terms that all reservations, even those legally made, are suppressed by the Seigniorial Act.

The legal Proposition submitted by the Crown, in refe-