

The Story of a Mining Dispute

HOW TWO MILLIONS OF DOLLARS CAME TO BE IN DISPUTE—A TALE FROM COBALT.

IT is not often that \$2,000,000 is left lying around so that people come into dispute over it. Yet this is exactly what has happened on a piece of ground not far from the town of Cobalt. It is alleged that \$2,000,000 worth of good silver ore was taken out of a hole in the ground by people to whom it did not belong. Other people who think they were the owners are now suing to recover the value of the ore. The Ontario Government, that luckiest of all governments, is interested because, if the plaintiffs win the suit, it will receive twenty-five per cent. of the proceeds. Even a Provincial Government does not pick up \$500,000 every day.

Now as to the story, which is somewhat interesting. Everybody knows how in September, 1903, a French Canadian by the name of La Rose discovered what he believed to be "mineral"—what, he did not know—near the railway which was then being built through what is now known as the Cobalt District. He immediately gave a half-interest in his find to the McMartins, who applied in La Rose's name, to the Ontario Government, for a mining location of forty acres, located opposite station 113 on the Ontario and Temiskaming Railway. If he had got the forty acres from the Ontario Government, there would have been no dispute as to the ownership of these \$2,000,000. It appears, however, that the grant was made subject to the right of way of the railway. La Rose thus got forty acres less a strip 99 feet wide running through the centre of his location.

However, La Rose was not worrying about the right of way at that time, as he almost immediately assigned the remainder of his interest in the lease and lands covered by it to the Timmins brothers and David Dunlop. The latter went to work to develop the discovery. They sank a shaft over the top of the vein at a point about 100 feet distant from the railway track or right of way, and began to take out silver. They ran tunnels along the vein in both directions, towards the railway track and away from it. Instead of being poor contractors, they soon became genuine millionaires. The La Rose mine proved to be very valuable.

In the meantime somebody started the idea that probably there was some valuable silver ore under the railway and along the right of way. It is probable that some persons made application to the Government to get the rights along the railway. However, the Government did not grant them, but by order-in-council and by statute turned all possible mining rights over to the Temiskaming and Northern Ontario Railway Commission. These gentlemen put the right of mining under the railway track up to tender. There was considerable trouble over this matter before it was settled, but that is another story. In the end, the right to mine on these locations along the track was granted to the Right of Way Mining Co., consisting mainly of people resident in the city of Ottawa. They paid \$50,000 in cash and agreed to pay twenty-five per cent. of the value of the ore taken out.

When the Right of Way people went to take possession of their property, they figured out that the vein of silver which apparently started in the O'Brien property and then crossed the La Rose property (as may be seen in the map) ran into their property. Accordingly, they put up a

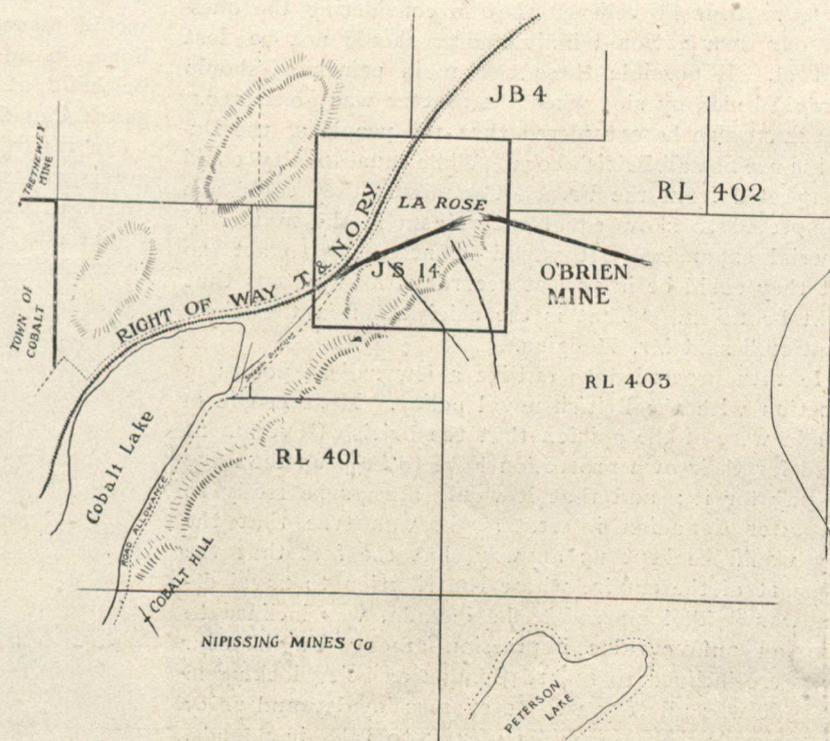
shaft hoise on the edge of the right of way over the point where the La Rose vein was likely to extend into the right of way.

The La Rose Mining Co. did not like this, and they proceeded to fight. They brought an action against the Railway Commission, the Right of Way Mining Co. and certain individuals and asked for an injunction to prevent any person but themselves taking ore off the right of way. This case came to trial in due course, and judgment was delivered on March 15th, 1907. The question to be decided by the judge was, did the La Rose Mining Co., owned by the McMartins, have a right to the whole forty acres for which La Rose applied, or only to that portion of it outside the railway track. On this point, Mr. Justice Mabee, who took the case, says:

"It appears that when the Crown grant issued, McMartin et al., the grantees, paid for only 37 acres of land. It was contended that under the Act at that time a mining location could not consist of less than 40 acres, and that the reference in the descriptions to mining location J. S. 14 meant 40 acres. I do not think so. Reading the plan with the description of the lands applied for, it seems to be too plain for argument to the contrary that what was being asked for and conveyed was the 37 acres shewn in pink upon the plan, and I am of the opinion that no other lands passed than the 37 acres so coloured, and that the intention clearly appears to except or reserve the 3 acres coloured green. No other construction seems to me possible."

"The title to the 3 acre strip in question was afterwards, by order-in-council and statute confirming it, vested in the Railway Commission, which granted to the individual defendants, who in turn granted to the Right of Way Mining Co. Much argument was had upon these subsequent transactions, but, in my view, they are immaterial, as plaintiffs fail entirely in making out a title in themselves to the 3 acre strip, and that is fatal to their case."

Under this decision, the Right of Way Mining Co. went to work with greater freedom and redoubled energy. They had been troubled by all sorts of obstructions such as neighbourly dynamite explosions and other forms of amusement. Now they were free to pursue their work in peace. Accordingly, they hurried to get the rich body of silver which they believed must lie in that little 99-



Map to illustrate the dispute as to the ownership of Two Million Dollars worth of Ore. The heavy, fractured line beginning on the O'Brien property and running through La Rose and on to the right of way, indicates a vein of Silver which is likely to be historic.