

"working any lands but those now conceded or those as to which they acquire the right to do so from the *Censitaires*, the Crown do agree to receive from the former, in lieu of the Royalty stipulated on the Letters Patent, similar fees to those provided by the 'Gold Mining Act,' on condition that they do within five years from this date settle the disputes with the *Censitaires* and representatives as to the ownership of the gold on private lands, either by making bargains with the owners, or by taking such legal measures as will demonstrate that the Company and not the *Censitaires* are the owners of the gold on private lands, and that failing adjustment of these disputes within a reasonable time, the Company shall abandon its pretension to the gold on conceded lands, so that the department may deal with the *Censitaires* as owners of the gold, with the additional proviso that lawsuits of the Company pending at the termination of the period of five years will be allowed to go to the final decision, ordinary diligence being used to obtain such decision."

This report was approved of by the Governor-General in Council, and accepted it is said, by the DeLéry Mining Company, and it is contended that it binds the DeLéry family, becomes a portion of the original Patent, and that the failure to fulfil the stipulations of this report, is a good cause for setting aside the Patent of 1846.

The only acceptance by the Mining Company was their letter of 4th December, 1865, and with this letter the DeLéry family had nothing to do. It was a transaction between the Company and the Government which amounts to this, that as the Government would not get any Royalty, because the quartz would be crushed and not smelted, it would take the Royalty mentioned in the Gold Mining Act.

But it is argued, if the DeLéry family are not bound by this agreement, they have failed to carry out the conditions of the Patent. There are two answers to this: First, there is no Royalty under the Patent to pay; second, if the Government chose to absolve the tenants of the grantees from the obligations of the Patent, it cannot find fault with the grantees either for the non-fulfilment of the original obligations, or of the substituted ones, unless the grantees have

specially bound themselves to the new arrangement. There is no evidence of this.

This equally answers the pretention that the de Léry family were to settle with the *censitaires*, one way or other, either by suit or by arrangement. But there is still another answer to this last pretention, namely, that there are no suits in existence, except the one before us. Now can it be seriously pretended that the Attorney-General should succeed in setting aside the Patent of 1846, not on the merits, but because he is urging the rights of Mr. McDonald? If so, he had only to bring a suit, and shut the mouths of Respondents.

In order that there might be no chance thrown away, irregularities are complained of in the Patent itself. There was not any warrant, it is said, for the Bill, and no warrant for the Privy signet, nor no signet itself, nor warrant for the great seal, nor the great seal itself.

We are not aware that all these formalities are in use here. There is no Privy Signet. The great seal and the signatures of the proper officers are all the warrant required to authenticate a document of that kind, and if the great seal was used without warrant, or if the signatures were improperly attached, the appellant should have established this.

It has been also said there was a mis-recital, and that the original grant was not to the *auteur* of respondents. This is covered by an admission.

We are therefore to dismiss this appeal, and to confirm the judgment of the Court below quashing the Information of the Attorney-General.

Judgment confirmed.

C. Fitzpatrick for the Crown.

G. Amyot for the DeLéry Gold Mining Co.

W. & A. H. Cook for the other defendants.

GENERAL NOTES.

Mr. Baron Pollock presided recently at the annual supper to discharged criminals, commonly called the "Thieves' Supper," in Little Wild street, a narrow thoroughfare in the very centre of vice and crime. The guests were principally composed of ticket-of-leave men, most of whom are still under police surveillance. Baron Pollock, in an after-supper speech, asked all present to take "hope" and "courage"—"Hope that they might retrieve the past," and "Courage to listen to the still small voice within them."