

Reply of the Dominion Coal Company Limited

Except coal, the source of which is referred to above, the whole of the raw materials required for the works at Sydney are procured from the Company's Mines and quarries. The Wabana Mine at Bell Island in Conception Bay, in Newfoundland furnishes the iron ore and the Company's quarries at Port au Port in Newfoundland and Marble Mountain, Nova Scotia, supply limestone. Dolomite is obtained from the Company's property at George's River seventeen miles from Sydney.

The Company employed during the past year an average daily force of 5,497 men and for the year 1918 paid in wages \$6,647,303.10. To this must be added the men employed by contractors erecting new plant, railroad men and the force required in the construction of new works, the transportation of material required for operations resulting from and consumed in that year 1,166,901 tons of coal and mined 638,517 tons of iron ore and about 500,000 tons of flux.

In 1917 it produced 344,610 tons of pig iron and 382,555 tons of steel.

These works and the mines and quarries from which it derives its material and the undertakings in connection with them represent a present investment of \$40,000,000.00 which will be increased to \$45,000,000.00 when the work now in progress is completed.

THE NECESSITY FOR METALLURGICAL COAL.

The one item of prime necessity in respect to which the Steel Company is dependent upon outside sources is coal. If anything were to happen which would prevent the Dominion Coal Company from fulfilling its obligation to furnish all the coal required to carry on its operations, the Steel Company would have to come to an end as there is no other source from which a supply could be obtained.

Conversely it is highly important in the interest of the Coal Company and especially of its employees and the revenues of the Province that the operations of the Steel Company should be maintained in sufficient volume to use all the coal that can be mined all the year round, otherwise the operation of the Collieries must be greatly restricted, or even discontinued in the winter season when only a limited tonnage can be disposed of on account of the small requirements of the districts to which access is possible during the period when the St. Lawrence is closed to navigation. The Steel Company's consumption acts as a balance wheel to a system that otherwise must run very unevenly—at great speed during the summer months and slowly or intermittently during the winter.

The Coal Company must be able year in and year out for a certainty to deliver 1,250,000 tons of metallurgical coal to the Steel Company if the Steel Company is to hold its ground. The Coal Company must enlarge its operations and be prepared to deliver a larger tonnage if the Steel Company is to become a larger factor in the prosperity of the country.

To complete this brief historical review and the statement of the activities of these companies it ought to be pointed out that in 1910 a holding company, the Dominion Steel Corporation Limited, was formed and has acquired the shares of both the Steel and Coal Companies and since that date the affairs of the Companies have been directed by practically a common Board, working in the interest of one body of shareholders. This action was taken to ensure the continuance of amicable relations between these two Companies whose undertakings mean so much to the material welfare and to the revenues of the Province and the impossibility of the recurrence of a break which had arisen on account of the growing difficulty of maintaining an ample supply of metallurgical coal.

SECURITIES ISSUED TO THE PUBLIC.

A statement of the securities issued by the Dominion Companies and from their sale to the public, capital was obtained to establish and equip these giant enterprises, may now be made:

The Coal Company first created an issue of bonds to the amount of \$3,000,000, but as more money was needed to open mines, equip piers and to extend its business, these were paid off and a new mortgage to secure \$7,000,000 was made; the preference shares amount to \$3,000,000. The Steel Company has now outstanding bonds secured by mortgage to about \$14,000,000 and \$5,000,000 preference shares. The stock of both Companies is represented by that of the Steel Corporation and amounts to \$37,000,000. The Steel Corporation have issued preference shares to the amount of \$7,000,000. This was done in part to secure necessary moneys to develop the Steel plant and partly to open and equip new coal mines. In order that these shares could be sold in England an income bond was entered into by the Coal Company guaranteeing that the Company would pay the interest at six per cent. semi-annually on \$3,500,000 of these shares. A similar bond was entered into by the Steel Company. The National Trust Company of Toronto is the holder of these income bonds as a pledge to these shareholders that interest will be paid on these preference shares.

To secure the issue of bonds made by the Coal Company all its property, present and future was pledged, including its leased areas on the north of Sydney Harbour which the Nova Scotia Company now ask to have transferred to them.

Previous to the last issue of this Company's bonds made in 1905, the Dominion Coal Company had special reports made by Mr. Emmerson Bainbridge and Mr. George Blake Walker, members of the first rank of the Institute of Civil Engineers in England. Their special reports were filed with the brokers and bankers for inspection by intending purchasers of bonds. The prospectus referred to the "enormous reserve areas" as one of the reasons for the high certificate these gentlemen were able to give to the proposed issue. Certificates of title from wellknown solicitors were as usual in such flotations required by the issuing bankers and supplied certifying that this Company's titles were unimpeachable.

When the issue of \$7,000,000 Preference shares of the Steel Corporation was made in 1912 and the Income Bonds were entered into by the Coal and Steel Companies, respectively, to enable the shares to be sold on the London market, an authoritative statement of the properties owned by the respective Coal and Steel Companies with accompanying maps was issued under the authority of Mr. J. H. Plummer, then President. This paragraph appears:—

NORTH SYDNEY DISTRICT.

On the large areas north of Sydney Harbour owned by the Company on which, as yet, no collieries have been opened by it, there are important and valuable seams, including those worked for many years by the Nova Scotia Steel and Coal Company Limited on adjoining areas.

The accompanying maps showed clearly the areas owned by the Nova Scotia Company and the areas adjoining of this Company that were proved by the operations of the Nova Scotia Company.

These preference shares were sold in London and are largely held there and this Company contemplates the astonishment of the holders and of the responsible financial houses who sold these shares when they learn that the titles on which their security is based are so lightly esteemed in Nova Scotia that the Government of the Province formally calls upon the Company who pledged the property as security for the payment of interest on their money to give reasons why it should any longer be maintained as such security.

That this Company should be called upon by the Province to justify its right to hold its titles to its areas granted by the Province causes it surprise and genuine alarm.

REASONS GIVEN BY THE NOVA SCOTIA COMPANY FOR GOVERNMENT ACTION.

The reasons given by the Nova Scotia Company are in substance the following:

That it has reached the boundaries of the seams presently being worked in its leased areas and that to extend these workings to its outside areas would cost a large sum of money; that if it did extend these workings the cost of winning the coal would be prohibitive; that the present operations endanger the possibility of winning the coal from outside areas; that unless it can secure metallurgical coal at cheap cost it must close its blast furnaces and that this will be accompanied by the decay of the towns that exist by reason of its operations.

It is true that it endeavors to state its own necessities in the form of general propositions, and without any justification in fact asserts that the Dominion Coal Company will soon have to restrict its operations at Glace Bay by reason of its workings coming to the boundaries of the outside areas of the Nova Scotia Company. The application is based upon the necessities of the Nova Scotia Coal Company and not upon any public interest involved. The unwarranted suggestions are made that royalties will be lost to the Province! and that the cost of coal to the public will be increased if the Nova Scotia Company's present workings are not utilized to extract coal from its neighboring property.

NATURE OF THE COAL COMPANIES TITLES AND PLEDGES GIVEN WHEN THEY WERE ACQUIRED.

The titles of the Dominion Coal Company are held under two different forms of leases—one a lease for 99 years from 1893 with a right of renewal for 20 years, the other the usual statutory form of lease for 20 years with rights of renewal totalling 80 years. The area asked for by the Nova Scotia Company in Plan B is covered in part by the 99 years lease of the Dominion Company—the balance by the usual coal leases, issued by the Province.

A perusal of the correspondence with the Government leading up to the formation of the Company and of the debates in the Legislature when the pro-

posed 99 year lease was under discussion reveals the fact that the organizers of this Company were critical of the titles they were getting. They and their legal advisers were chiefly citizens of the United States whose training familiarized them with the principle that a contract once entered into was inviolate and that no legislature could alter it. They hesitated to invest money in leases where the tenure might be altered by subsequent legislation. Though they were advised that no British Legislature had ever before altered a contract they insisted that for future reference as to their doubts and the assurances then given them to allay these doubts that the following clause should be inserted in their lease as declaratory of the good faith of the legislature:—

"And the said lessor doth further covenant and agree to and with the said lessee that the provisions hereof shall be construed as declaring the respective rights of the parties hereto, and that any legislation of the Province of Nova Scotia now or hereafter to be enacted during the pendency of this lease at variance with the provisions of this agreement shall not be held to modify or diminish any of the rights, powers or privileges herein granted unto the said lessee, its successors or assigns."

That clause is in the lease covering part of the area the Nova Scotia Company asks should be conveyed to them. That lease confirmed as it was by the Legislature, Chapter 1 of the Acts of 1893, "An Act for the Further Encouragement of Coal Mining," contains a clause that all leases acquired by the Company shall have, at the request of the Company inserted as one of the covenants a clause in the same language so as to render them inviolate from legislative change for 99 years.

Further the usual statutory leases issued by the Province are unalterable contracts except as to the amount of royalty; that term and that alone the legislature reserves power to change.

During the debate on the special lease before referred to the Honourable Mr. Murray speaking on behalf of the Government of the day, and then its leader in the Legislative Council, used the following language in reply to a criticism made against fixing the royalty in the new lease:—

"Last session the Honourable gentleman from Cumberland said: 'If the government from change the royalty from time to time, there would be nothing like the permanency or stability which would be requisite in order to attract foreign capital into these enterprises.'"

"Now this was the deliberately expressed opinion of the honourable gentleman during the last session of this house. This was the policy which had commended itself to the government and this was what they had done in this bill. They had stated to Mr. Whitney in effect—'If you will engage in coal mining in Cape Breton with the investment of a very large amount of capital—if you will guarantee a larger output of coal—if you will extend our trade to new markets—if you will invest in good faith, we feel that in consideration of all this you should have a fixed royalty.'—Page 18 Debates Legislative Council, 1893."

That was the attitude of the Government only as to one term of the lease, and it is unnecessary to reason what their declaration of policy would have been had there been a suggestion to the organizers or their bankers that the lease itself would have to run the risk of legislative annihilation in the near future.

In the debate in the House of Assembly, the Honourable The Attorney General (now the Honourable Mr. Justice Longley), speaking about the sanctity of titles held under the statutory form of coal leases on behalf of the Government used this language:

"The leases which we have given under the sanction of the Legislature are a bargain between two parties and public faith is pledged to maintain them in every particular. As long as those leases apply we are not at liberty to violate the faith of the Province. It may be considered the proud boast of this Province that at all periods of its history it has been the jealous care of its Governments to guard the country to the utmost extent against the remotest imputation of bad faith."—Page 53 Debates.

That statement made by such authorities and the hitherto unquestioned character of the titles issued by the Province led this company to believe it would be safe to acquire holdings North of Sydney Harbour. This it did for a large sum of money in 1893. For 25 years it has held these leases, paid the statutory rentals and considers them as its chief reserve of supply for the essential metallurgical coal this Company must supply to the Steel Company.

COMPARATIVE VALUES PROPOSED TO BE EXCHANGED.

The Nova Scotia Company advocates that the Government compel an exchange for the areas of this Company north of Sydney Harbour, a number of its submarine areas lying farther