

But this latter remark was made in relation to the respective powers and property rights of the Dominion and the Provinces, and has no application to a case like the present where the lands were Crown Lands the property of the Province.

Even supposing the opinion of the Court to be that the Letters Patent issued in error and improvidently, the Act must still remain as a Legislative declaration of the validity of the sale. And in that respect the Act would form a bar to the plaintiffs' alleged rights.

Another point, not however raised by the pleadings or argued in the Court below, was suggested in argument of the appeal. It was contended that the grant to the defendants did not comprise or carry with it a grant of the precious or 'royal' metals. The grant is of the land covered with water composed of Cobalt Lake mining location together with the mines, minerals and mining rights, thereon and thereunder.

The Mines Act, R.S.O. Cap. 36, sec. 2 (6), defines mining rights as meaning ores, mines and minerals on or under any land where the same are dealt with separately from the surface of the land; see also the Mines Act, 1906, Sec. 2 (9), (10) and (12). Here the Letters Patent are issued subject to the provisions of sections 188 to 221 inclusive of the Mines Act, 1906, and there is a grant both of the land and of the mining rights as well as of the mines and minerals thereon and thereunder; words which, having regard to the nature of the territory and the purposes of the grant, seem broad and comprehensive enough, one might suppose, to justify a construction that would include metals and minerals of every description. Sections 3, 4 and 5 of the Mines Act, R.S.O., Cap. 36,