

only with the more precious of the two royal minerals. It established a system of gold mining divisions and mining licenses. Two classes of mining licenses were provided for, one known as the Crown lands gold licenses and the other as private lands gold licenses. Before this Act the subject had been dealt with by Orders-in-Council and Regulations. In 1845 certain general regulations were made, but prior to that date each case requiring executive action was dealt with as it arose by Order-in-Council.

Section 13 of this Act provided that "the ground in every claim shall be deemed to be bounded under the surface by lines vertical to the horizon." This continued to be applicable to mining claims until the General Mining Act 1869, 32 Vict. (Ont.) c. 34, s. 20, which added the words "except that every mining claim shall include and shall authorize the licensee to work every dip spur and angle of the vein or lode laterally to the depth to which same can be worked with all the earth and minerals thereon." This crude and inconvenient system of extra-lateral rights, sometimes inaccurately referred to as the apex rule, was continued as to mining claims until it was repealed in 1897 by 60 Vict. (Ont.) c. 8, s. 14, and the original rule of 1864 that the "ground included in each claim shall be deemed to be bounded under the surface by lines vertical to the horizon" was restored. It did not apply to mining locations which in this respect are governed by the more reasonable rule of the common law now also again made applicable to mining claims.

The Act of 1864 was amended in the following year by 29 Vict. c. 9, and, as so amended, the law stood at the date of Confederation. The prerogative right above defined to the precious metals being included among the rights vested in the Crown *jure coronae* was included in the term "royalties" which s. 109 of the British North America Act declared to belong to the Province(b).

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(b) *Attorney-General of Ontario v. Mercer* (1882-3) 8 App. Cas. 778; *Attorney-General B.C. v. Attorney-General Canada* (1888) 14 App. Cas. 295; *Caldwell v. Fraser*, a decision of Rose, J., unreported, but referred to in *Ontario Mining Co. v. Seybold*, 31 Ont. R. 400.