

rule against perpetuities, such rule was, nevertheless, inapplicable in 1823 to Crown grants of land in New South Wales, or to reservations or defeasances in such grants to take effect on some contingency more or less remote, and only when necessary for the public good.

D.N.A. ACT, 1867, S. 109—RIGHTS OF PROVINCE TO PRECIOUS METALS AFTER CONVEYANCE OF LANDS BY PROVINCE TO DOMINION.

The constitutional question involved in *The Attorney General for British Columbia v. The Attorney General for Canada*, 14 App.Cas. 295, was whether after the conveyance of public lands within the railway belt in British Columbia to the Dominion of Canada for the purposes of the construction of the Canadian Pacific Railway, the Province or the Dominion was entitled to the precious metals under such lands. The Supreme Court decided the question in favour of the Dominion, but the Judicial Committee reversed the judgment, and held the Province remained entitled to the precious metals notwithstanding the conveyance to the Dominion, on the ground that mines of gold and silver belong to the Crown by virtue of its prerogative, and that this prerogative right remained in the Province, not having been expressly granted by the conveyance of the lands to the Dominion.

GRANT OF ADMINISTRATION VESTS TITLE AS FROM DEATH—RIGHTS AND LIABILITIES OF HUSBAND AS WIFE'S ADMINISTRATOR.

*Harding v. Howell*, 14 App.Cas. 307, is a case which, though decided under the law of Victoria, is of some practical interest in this Province, as to the effect of our Devolution of Estates Act. The facts of the case were simple. A wife died, entitled to lands under certain voluntary conveyances from her husband. Her husband after death purported to convey these lands to a purchaser for value. Subsequently the husband took out administration to his wife's estate. It was held by the Judicial Committee that the effect of the letters of administration was to vest the wife's estate in the lands in question in the administrator as from the date of her death as trustee to realize and distribute them according to law as assets of her estate, and that if the conveyance by the husband was *bona fide* for value, the husband was guilty of a breach of trust; and if not *bona fide* it was inoperative; and in either view the husband was chargeable with the value of the lands.

PRACTICE—AMENDMENT OF RULE NISI—DISCRETION OF COURT.

The short point of practice disposed of by the Judicial Committee in *Australian Navigation Co. v. Smith*, 14 App.Cas. 318, was simply this: Both parties at the trial treated an issue as one which should be decided by the judge and not the jury, and the appellants afterwards moved for a new trial on the ground that the judge had decided wrongly. On this application he applied for leave to