sense, signifying that part of the *reddendum* which is variable and depends upon the quality of minerals gotten. It is also true that in Crown grants of land in British North America the practice has generally been to reserve to the Crown not only Royal mines properly so called, but minerals generally, and that mining grants or leases had before the Union been made by the Crown both in Nova Scotia and New Brunswick, and that in two Acts of the Province of Nova Scotia (one as to coal mines and the other as to mines and minerals generally) the word "royalties" had been used in its special sense as applicable to the variable *reddenda* in mining grants or leases. Another Nova Scotia Act of 1849, surrendering to the Provincial Legislature the territorial and casual revenues of the Crown arising within the Province, was also referred to by Mr. Justice Gwynne. But the terms of that Act were very similar to those now under consideration, and if "royalties" in the context which we have here to consider, do not necessarily and solely mean *reddenda* in mining grants or leases, neither may they in that statute. It appears, however, to their Lordships to be a fallacy to assume that, because the word "royalties" in this context would not be inofficious or insensible, if it were regarded as having reference to mines and minerals, it ought therefore to be limited to those subjects. They see no reason why it should not have its primary and appropriate sense, as to (at all events) all the subjects with which it is here found associated—lands as well as mines and minerals. Even as to mines and minerals, it here necessarily signifies rights belonging to the Crown, *jura coronæ*.

The general subject of the whole section is of a high political nature; it is the attribution of Royal territorial rights, for purposes of revenue and government, to the Provinces in which they are situate or arise. It is a sound maxim of law that every word ought *prima facie* to be construed in its primary and natural sense, unless a secondary or more limited sense is required by the subject or the context. In its primary and natural sense, "royalties" is merely the English translation or equivalent of "*regalitates*," "*jura regalia*," "*jura regia*." (See "royalties," Cowell's Interpreter, Wharton's Law Lexicon, Tomlins' and Jacobs' Law Dictionaries). "*Regalia*" and "*regalitates*," according to Ducange, are "*jura regia*;" and Spelman (Gloss, Arch.) says, "*Regalia dicuntur jura omnia ad fiscum spectantia.*" The subject was discussed, with much fullness of learning, in *Dyke v. Walford* (5 Moore, P. C. 634). where a Crown grant of *jura regalia*, belonging to the County Palatine of Lancaster, was held to pass the right to *bona vacantia*. "That it is a *jus* (said Mr. Ellis in his able argument, *regale* p. 480) is indisputable; it must also be *ibid;* for the Crown holds it generally through England by Royal prerogative, and it goes to the successor of the Crown, not to the heir or personal representative of the sovereign. It stands on the same footing as the right to escheats, to the land between high and low water mark, to felons' goods, to treasure trove, and other analogous rights." With this statement of the law their lordships agree, and they consider it to have been in substance affirmed by the judgment of Her Majesty in Council in that case. Their lordships are not now called upon to decide whether the word "royalties" in section 109 of the British North America Act of 1867 extends to other Royal rights besides those connected with "lands," "mines," and "minerals." The question is whether it ought to be restrained to rights connected with mines and minerals only, to the exclusion of royalties, such as escheats, in respect of lands. Their lordships find nothing in the subject or the context, or in any other part of the Act, to justify such a restriction of its sense. The larger interpretation (which they regard as in itself the more proper and natural) also seems to be that most consistent with the nature and general objects of this particular enactment, which certainly includes all other ordinary territorial revenues of the Crown arising within the respective Provinces.

The conclusion at which their lordships have arrived is that the escheat in question belongs to the Province of Ontario, and they will humbly advise Her Majesty that the judgment appealed from ought to be reversed, and that of the Vice-Chancellor and Court of Appeal of Ontario restored. It is some satisfaction to know that in this result the Courts of Quebec and Ontario have agreed, and though it differs from the opinion of four judges constituting the majority of the Supreme Court of Canada, two of the judges of that Court, including the Chief Justice, dissented from that opinion. This being a question of a public nature, the case does not appear to their lordships to be one for costs.

Judgment reversed.

Horace Davey, Q.C., *The Attorney-General of Ontario*, *Raleigh* and *J. R. Cartwright*, } Counsel for the Appellant.

The Solicitor-General, *Lash*, *Q.C.*, and *Jeune*, for the Dominion Government.