

countries which have been solved for them by Lord Watson with the concurrence, in the first case, of the Lord Chancellor, the late Lord Fitzgerald, Lord Hobhouse, and Lord Macnaghten; in the second, of the same councillors, with Sir William Grove substituted for the Lord Chancellor; and in the third, of Lord Bramwell, Sir Barnes Peacock, and Sir Richard Couch. *The Attorney-General of British Columbia v. The Attorney-General of Canada*, 58 Law J. Rep. P. C. 88, deals with the effect of a grant of public lands to the Dominion by the Provincial Legislature, upon the admission of British Columbia into the Dominion, on the rights of the Crown, and particularly of gold-mining. In *Cooper v. Stuart*, 58 Law J. Rep. P. C. 93, the applicability of the rule against perpetuities to colonies, and in particular as against the Crown, and in the circumstances of New South Wales, was decided. In *The Colonial Secretary of Natal v. Carl Behrens*, 58 Law J. Rep. P. C. 99, the effect of a reservation of a right to resume possession in a Crown grant of land and the existence of a duty in the holder, who is deprived of it either with or without compensation, to execute a transfer were determined.

The Columbia case was brought on appeal by special case under a British Columbia Act, and the question raised was, whether the precious metals under certain public lands in that province belonged to that Government or the Government of Canada. Judgment had been given in the first instance for the Attorney-General of Canada. Upon appeal to the Supreme Court of Canada this judgment was affirmed by three judges to two. The judges who formed the majority were Chief Justice Ritchie and Justices Gwynne and Taschereau. The dissentient judges were Justices Fournier and Henry. The public lands in question, on British Columbia being, in 1871, by an Order of Council, made part of the Dominion of Canada were, by Article 11, agreed to be conveyed by that Province to the Dominion Government, in trust, to be appropriated in such manner as the Dominion might deem advisable in furtherance of the construction of a railway to connect British Columbia with the Canadian railway system, which

the Dominion undertook to complete in ten years, being a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of the said line, as might be appropriated for the same purpose by the Dominion Government, from the public lands in the North-West Territories and the Province of Manitoba. Lord Watson, in giving judgment, pointed out that the question whether the precious metals were included in the grant to the Dominion must depend on the meaning to be put on the words "public lands" in Article 11. He lays down that the title to the public lands of British Columbia has all along been, and still is, vested in the Crown; but the right to administer and to dispose of these lands to settlers, together with all royal and territorial revenues arising therefrom, had been transferred to the Province before its admission into the federal union. The object of the Dominion Government was to recoup the cost of constructing the railway by selling the land to settlers. Whenever land is so disposed of, the interest of the Dominion comes to an end. The land then ceases to be public land, and reverts to the same position as if it had been settled by the Provincial Government in the ordinary course of its administration. According to the law of England, gold and silver mines, until they have been aptly severed from the title of the Crown and vested in a subject, are not regarded as *partes soli*, or as incidents of the land in which they are found. Not only so, but the right of the Crown to land, and the baser metals which it contains, stands upon a different title from that to which its right to the precious metals must be ascribed. In the *Mines Case*, 1 Plowd. 366, all the justices and barons agreed that, in the case of the baser metals, no prerogative is given to the Crown. Although the Provincial Government has now the disposal of all revenues derived from prerogative rights connected with land or minerals in British Columbia, these revenues differ in legal quality from the ordinary territorial revenues of the Crown. It therefore appeared to the Judicial Committee that a conveyance by the Province of "public lands," which is,