

and right of all persons claiming any interest in the property. The Act also provides that any person required to take out a license who works or permits to be worked any mine without a license shall be subject to certain penalties.

Section 10 provides that "Where ores or minerals that have been mined, raised or won in this province are smelted or otherwise treated in the Dominion of Canada by any process so as to yield fine metal or any other form of product of such ores or minerals suitable for direct use in the arts without further treatment, then, and in every such case, the fees provided herein or such proportion thereof as may be fixed by the Lieutenant-Governor-in-Council shall be remitted or if collected shall be refunded under such regulations as the Lieutenant-Governor-in-Council may prescribe."

The disallowance of this Act by the Governor-General-in-Council was asked by the Canadian Mining Institute and interested parties on several grounds the principal of which were: (1) That the Act amounted to confiscation of lands patented in fee simple for mining purposes and to which the legislature had applied the language "such lands, ores and minerals shall be free and exempt from every such royalty, tax or duty." (R.S.O. 1897, c. 36, s. 3.) (2) That the legislation trenched on the exclusive jurisdiction of the Dominion Parliament respecting trade and commerce. (3) That the license fees amounted in substance to an export duty which could only be authorized by the Dominion and that the statute shewed on its face that it was not passed "in order to the raising of a revenue for Provincial purposes."

The Province undertook by Order-in-Council not to bring the legislation into force until its constitutionality should be affirmed by the Courts, and to join with the Dominion in obtaining a decision of the Supreme Court of Canada as to the validity of the Act, subject to appeal to the Judicial Committee of the Privy Council. Upon this the Dominion Government allowed the statutory time to expire without exercising the power of disallowance and the matter stands in that way.