

APPENDIX.

ATTORNEY-GENERAL OF BRITISH COLUMBIA [E.C.*] 1886

v. ATTORNEY-GENERAL OF CANADA.

April 15.

B.N.A. Act s. 92 sub-sec. 5, ss. 109 & 146—47 Vic. c. 14 s. 2 (B.C.) [S.C.] 1887
Provincial public lands, transfer of to Dominion of Canada—Effect of—Precious metals, claim of Dominion Government to.

Dec. 13.

By section 11 of the order-in-council passed in virtue of sec. 146 of the B.N.A. Act, under which British Columbia was admitted into the Union, it was provided as follows :

The Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway (C.P.R.), a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed however twenty (20) miles on each side of the said line, as may be appropriated for the same purpose by the Dominion Government from the public lands of the North-West Territories and the Province of Manitoba.

By 47 Vic. c. 14 s. 2 (B.C.) it was enacted as follows :—From and after the passing of this act there shall be, and there is hereby granted to the Dominion Government, for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of British Columbia, in trust, to be appropriated as the Dominion Government may deem advisable, the public lands along the line of railway before mentioned, wherever it may be finally located to a width of twenty miles on each side of the said line, as provided in the order-in-council, sec. 11, admitting the Province of British Columbia into confederation.

A controversy having arisen in respect of the ownership of the precious metals in and under the lands so conveyed, the Exchequer Court, upon consent, and without argument, gave judgment in favour of the Dominion Government. On appeal to the Supreme Court :

Held, affirming the judgment of the Exchequer Court (Fournier and Henry, JJ. dissenting) that under the order-in-council admitting British Columbia into confederation, and the statutes transferring the public lands described therein, the precious metals in, upon, and under such public lands are now vested in the Crown as represented by the Dominion Government.

See Can. S.C.R. Vol. xiv, p. 345.

*REPORTER'S NOTE :—The abbreviations E.C. and S.C. signify the Exchequer Court and Supreme Court, respectively ; and the dates refer to the delivery of judgment in each court.