

In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT OF CANADA.

10

IN THE MATTER of a Reference as to whether the Parliament of Canada had legislative jurisdiction to enact The Natural Products Marketing Act being Chapter 57 of the Statutes of Canada 1934 and its amending Act The Natural Products Marketing Act Amendment Act being Chapter 64 of the Statutes of Canada 1935.

BETWEEN

THE ATTORNEY-GENERAL OF BRITISH COLUMBIA - - - - - *Appellant*

AND

THE ATTORNEY-GENERAL OF CANADA and THE ATTORNEYS-GENERAL OF THE PROVINCES OF ONTARIO, QUEBEC, NEW BRUNSWICK, MANITOBA, ALBERTA and SASKATCHEWAN - - - - - *Respondents.*

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Case

FOR THE ATTORNEY-GENERAL OF BRITISH COLUMBIA

RECORD.

1. This is an appeal by special leave from the judgment of the Supreme Court of Canada dated the 17th June, 1936, answering the question referred to the said Court for hearing and consideration by order of His Excellency The Governor-General in Council dated the 5th November, 1935, P.C. 3460, pursuant to the provisions of section 55 of the Supreme Court Act touching the constitutional validity of the said Natural Products Marketing Act 1934 and amending Act of 1935.

p. 56.

p. 3.

2. The question referred to the Court was as follows :—

p. 4, ll. 13-16.

“ Is The Natural Products Marketing Act, 1934 as amended by The Natural Products Marketing Act Amendment Act, 1935, or any of the provisions thereof and in what particular or particulars or to what extent, *ultra vires* of the Parliament of Canada ?

3. That the full text of the said Act is contained in an official print which accompanies the Record.

4. The material provisions of the British North America Act 1867 relating to the questions involved are sections 91 and 92 thereof.

5. That on the hearing of the argument before the Supreme Court of Canada the Court being composed of Duff C.J., Rinfret, Cannon, Crocket, Davis and Kerwin, JJ. the case was presented by Counsel for the Attorney-General of Canada and Counsel was also heard on behalf of the Attorneys-General for Ontario, Quebec, New Brunswick, Manitoba and Saskatchewan. Counsel for the Attorney-General of the Province of British Columbia stated that he was supporting the validity of the Act but did not file a factum or further argue the case. 10

pp. 57-74.

6. That on the 17th day of June, 1936, the Court delivered Judgment answering the question referred to the Court by an unanimous decision delivered by the Chief Justice to the effect that the said Statute was *ultra vires* on the ground that the powers of regulation vested in the commissions appointed under the Statute extended not only to external trade and matters connected therewith and to trade in matters of interprovincial concern ; but also to trade which is entirely local and of purely local concern in such a sweeping manner as to be inconsistent with the scheme of the distribution of legislative powers enacted by the British North America Act. 20

7. The Appellant submits that the decision of the Supreme Court of Canada as delivered by the learned Chief Justice is wrong and that the Act should have been held to be *intra vires* for the following amongst other 30

REASONS.

- (1) IT is legislation in relation to a matter not coming within the classes of subjects by the British North America Act exclusively assigned to the legislatures of the provinces, and, therefore, within the legislative jurisdiction of the Dominion Parliament.
- (2) IT is legislation in relation to the regulation of trade and commerce.

- (3) IT is legislation (as to the provinces authorising the imposition of charges and tolls) of a necessarily incidental or ancillary character, and moreover legislation in relation to the raising of money by any mode or system of taxation.
- (4) IT is legislation in relation to agriculture and to sea-coast and inland fisheries.
- 10 (5) IT is legislation, as to some of the provisions of the principal acts (notably section 4 (1) (g) and Part II thereof), of a necessarily incidental or ancillary character and, moreover, legislation in relation to statistics and the criminal law.
- (6) THE Act is so designed as to deal with trade which is local or of local concern only to the extent necessary to enable provincial legislation to have co-operative effect with the federal enactment, and so as not to encroach upon but only to supplement and make more effective provincial legislation enacted within provincial powers.

GORDON McG. SLOAN.

J. W. DE B. FARRIS.

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Case

**For THE ATTORNEY-GENERAL OF
BRITISH COLUMBIA.**

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