

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 Farmers' Creditors Arrangement Act being Chapter 53 of the Statutes of Canada 1934, as amended by the Farmers' Creditors Arrangement Act Amendment Act being Chapter 20 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.*

20

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 18th November, 1935, P.C. 3578, pursuant to the provisions of section 55 of the Supreme Court Act, touching the constitutional validity of the Farmers' Creditors Arrangement Act, 1934, being chapter 53 of the Statutes of Canada, 1934 ; and its Amending Act, the Farmers' Creditors Arrangement Act Amendment Act, 1935, being chapter 20 of the Statutes of Canada, 1935.

p. 49.
p. 3.

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

“ Is the Farmers' Creditors Arrangement Act, 1934, as amended by the Farmers' Creditors Arrangement Act Amendment

p. 4, ll. 17-20.

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 hearing of the argument was before the Court composed of Duff C.J. and Rinfret, Cannon, Crocket, Davis and Kerwin JJ. and was presented by Counsel on behalf of the Attorney-General of Canada and on behalf of the Attorneys-General of Ontario, Quebec, New Brunswick, British Columbia, Manitoba and Saskatchewan. 10

p. 50,
ll. 29-33.
pp. 51-60.

5. Their Lordships the Chief Justice and Rinfret, Davis, Crocket and Kerwin JJ. held that the Statute was *intra vires*, the enactment being made a part of the general system for the administration of the assets of bankrupts and insolvents established by the Bankruptcy Act and so coming within the enumerated powers conferred on the federal parliament by the British North America Act 1867. Mr. Justice Cannon held that the statute except section 17 is *ultra vires* and that section 17 is *intra vires*.

6. The Appellant submits that the answers to the question so far as they upheld the constitutional validity of the Act are wrong and that the Act as a whole is *ultra vires*, not coming within the true meaning of the Bankruptcy legislation and being an encroachment upon the powers given to the Provinces under the British North America Act. 20

7. The Appellant submits that the judgment of the said Supreme Court of Canada is wrong and that the Act as a whole is *ultra vires* for the following amongst other

REASONS.

- (1) THE Act is one affecting property and civil rights within the Province and is not bankruptcy legislation.
- (2) EVEN if the Act has for its object the enactment of a system of bankruptcy or insolvency regulations, it is not legislation competent to the Dominion Parliament as it deals only with the contractual obligations of a particular class. 30
- (3) THE Act is *ultra vires* in so far as it purports to empower the Board of Review to make orders and directions which affect the Crown in the right of the Province as a creditor or of a farmer debtor.
- (4) FOR the reasons given by Cannon, J.

GORDON McG. SLOAN.

J. W. DE B. FARRIS.

In the Privy Council.

ON APPEAL

From the Supreme Court of Canada.

IN THE MATTER of a Reference as to whether the Parliament of Canada had legislative jurisdiction to enact The Farmers' Creditors Arrangement Act, being Chapter 53 of the Statutes of Canada 1934, as amended by The Farmers' Creditors Arrangement Act Amendment Act being Chapter 20 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.*

Case

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

GARD, LYELL & CO.,
47 Gresham Street,
London, E.C.2.