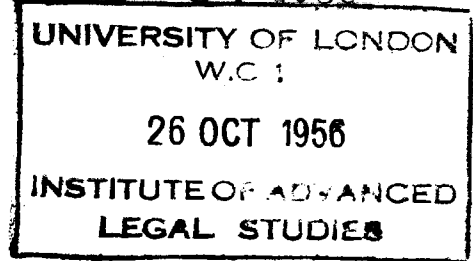


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IN THE SUPREME COURT OF CANADA.

IN THE MATTER OF—Three Bills passed by the Legislative Assembly of the Province of Alberta at the 1937 (Third Session) thereof, entitled respectively :

“ An Act Respecting the Taxation of Banks ” ;

“ An Act to Amend and Consolidate the Credit of Alberta Regulation Act ” ; and

10 “ An Act to Ensure the Publication of Accurate News and Information ” ;

and reserved by the Lieutenant Governor for the signification of the Governor-General's pleasure.

FACTUM OF THE ATTORNEY GENERAL FOR ALBERTA  
ON BILL No. 8 (CREDIT REGULATION).

1. This is a reference by Order of His Excellency the Governor General in Council (P.C. 2749, dated November 2nd, 1937) under section 55 of the *Supreme Court Act*. By the Order the Court is asked for its opinion on the question of the competence of the provincial Legislature to enact statutes in the terms of certain Bills, among others Bill No. 8, entitled  
20 “ *An Act to Amend and Consolidate the Credit of Alberta Regulation Act* ” , which was passed at the Fifth Session of the Eighth Legislative Assembly of the Province of Alberta and was reserved for the signification of the Governor General's pleasure on October 5th, 1937.

2. The Bill applies to what are called “ credit institutions ” as these institutions are defined in section 2 (a, b) of the Bill and requires each such institution to obtain a provincial license for the issue of which a fee of not more than \$100 is chargeable. For each licensed institution there are to be established one or more “ local directorates, ” each consisting of  
30 five members, of whom two are to be nominated by the institution and three by a statutory board called “ The Social Credit Board. ” Provision is made for the payment by the Province of the remuneration of all the members of each local directorate.

3. The local directorates are empowered “ to supervise, direct and control the policy of the business ” of the institution so as to prevent it from restricting or interfering with the full enjoyment of property and civil rights by any person within the Province. If there is such restriction or interference, the licenses issued are revocable by the Social Credit Board, and there is a heavy penalty upon any credit institution which carries on business without a license.

40 4. The terms used to define what constitutes a credit institution are obscure, but the exact interpretation of the definition seems to be irrelevant

to the question of the competence of the Legislature to enact the Bill. Any transactions coming within the meaning of the word "banking" in Section 91 of the *British North America Act* (Head 15) are expressly excepted from its operation. There is moreover in section 7 a general declaration that the Bill is not to be "so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislature of the Province."

5. Having regard to these provisions it is clear that the Bill purports to apply only to the conduct within the Province of businesses other than those to which the exclusive legislative jurisdiction of the Dominion Parliament extends and authorises only acts having an effect which it is within the jurisdiction of a provincial Legislature to procure. So limited there is, it is submitted, no ground upon which it is possible to deny the competence of the Legislature of the Province to pass the Bill. 10

6. What the Bill purports to regulate is a particular kind of business as carried on within the Province in the same way as the Ontario statute in *Citizens v. Parsons*, (1881) 7 App. Cas. 96, regulated the business of fire insurance. Recent instances of the affirmation of the same principle are to be found in *Atty. Gen. for Quebec v. Attorney Gen. for Canada*, (1932) A.C. 41; *Lymburn v. Mayland*, (1932) A.C. 318; and *Rex v. Arcadia Coal Co. Ltd.*, 26 A.L.R. 348, (1932) 1 W.W.R. 771 (Alta.). 20

7. These decisions make it clear that in respect of the application of legislation of the kind in question there is no distinction to be made between individuals resident in the Province, individuals resident elsewhere who carry on business within the Province, companies incorporated under the laws of the Province, companies incorporated under the laws of the other provinces, companies incorporated outside of Canada, and companies incorporated under competent Dominion legislation, subject, however, with regard to companies in the last category to the condition that the status and capacities of the company must not be destroyed. 30

8. The scope of this condition has been very exactly defined: *John Deere v. Wharton*, (1915) A.C. 330; *Great West Saddlery Co. v. The King*, (1921) 2 A.C. 91; *Atty. Gen. for Manitoba v. Atty. Gen. for Canada*, (1929) A.C. 260; *Lymburn v. Mayland*, (1932) A.C. 318; *Rex v. Arcadia Coal Co.*, 26 A.L.R. 348, (1932) 1 W.W.R. 771 (Alta.). It is submitted that it does not afford any ground for a contention that the Bill is inapplicable to Canadian companies.

9. The license fee chargeable is a moderate one and is supportable by reference to the Legislature's power to tax and to impose license fees: *Brewers and Malsters v. Atty. Gen. of Ontario*, (1897) A.C. 231; *John Deere v. Wharton*, (1915) A.C., at pp. 342, 343; *Great West Saddlery Co. v. The King*, (1921) 2 A.C., at p. 120; *Rex v. Nat Bell Liquors*, (1922) 2 A.C., 128. A license cannot be refused or cancelled so as to offend against the condition in view of the provisions of s. 7 of the Bill, and the same remark would apply to an objection based upon the absence of a more exact definition of

the powers of a local directorate: *Rex v. Nat Bell Liquors*, (1922) 2 A.C. at p. 135.

10. On the question of the Court's considering the wisdom of the legislation and also on the question of the relevance of paragraphs 1 to 3 of the Order of Reference, the Attorney General of Alberta repeats without reprinting them the submissions made in the factum relating to Bill No. 1 (Bank Taxation).

11. In his submission accordingly the second question referred to this Court for its opinion should be answered in the affirmative as to all the provisions of the Bill.

O. M. BIGGAR,

W. S. GRAY,

J. J. FRAWLEY,

of Counsel for the  
Attorney-General of Alberta.

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Legislative Assembly of the Province of Alberta  
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