

46, 1938

# In the Supreme Court of Canada

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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

“ 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.

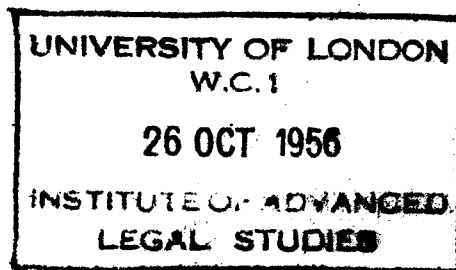
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## FACTUM

ON BEHALF OF THE ATTORNEY-GENERAL OF CANADA

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30559

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### 10 Factum on Behalf of the Attorney-General of Canada

1. By order of His Excellency the Governor General in Council, dated November 2nd, 1937 (P.C. 2749) (Case pp. 5 to 9, ls. 1 to 13), the following questions (Case p. 9, ls. 1 to 11), were referred to the Supreme Court of Canada for hearing and consideration pursuant to section 55 of the Supreme Court Act, namely:

1. Is Bill No. 1, entitled “ An Act Respecting the Taxation of Banks ” or any of the provisions thereof and in what particular or particulars or to what extent *intra vires* of the Legislature of the Province of Alberta?
2. Is Bill No. 8, entitled “ An Act to amend and Consolidate the Credit of Alberta Regulation Act ” or any of the provisions thereof and in what particular or particulars or to what extent *intra vires* of the Legislature of the Province of Alberta?
3. Is Bill No. 9, entitled “ An Act to ensure the Publication of Accurate News and Information ” or any of the provisions thereof and in what particular or particulars or to what extent *intra vires* of the Legislature of the Province of Alberta.

2. The full text of each of the Bills so referred to this Honourable Court will be found in the Case as follows:—

*Bill No. 1*, entitled “ An Act Respecting the Taxation of Banks,” at p. 9, ls. 14 to 29; p. 10; p. 11, ls. 1 to 13;

*Bill No. 8*, entitled “ An Act to Amend and Consolidate the Credit of Alberta Regulation Act,” at p. 11, ls. 14 to 32; pp. 12, 13, 14 and p. 15, ls. 1 to 13;

*Bill No. 9*, entitled “ An Act to Ensure the Publication of Accurate News and Information,” at p. 15, ls. 14 to 32; pp. 16, 17 and p. 18, ls. 1 to 6.

Note: -  
For “ Case ”  
read “ Record ”  
throughout

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3. In summary the circumstances which gave rise to this Reference (which are fully narrated in the recitals of the said Order in Council of November 2, 1937: Case, p. 5, ls. 12 to 27; pp. 6, 7, and p. 8, ls. 1 to 31) are these:—

The present Government of the Province of Alberta has (since its advent to office in September, 1935) pursued the avowed policy of inaugurating in that Province a “new economic order” on the principles or plan of the theory known as Social Credit. The said Government may, accordingly, be conveniently hereinafter referred to as the Social Credit Government.

More or less directly related to the project of carrying that policy into effect 10 are some twenty-five Statutes (twenty-three of which are enumerated in the second paragraph of the recitals of the said Order in Council of November 2nd, 1937), the enactment of which by the Legislature of the Province of Alberta was brought about by the Social Credit Government. The full text of each of the twenty-five statutes referred to will be found in the Case at pp. 29 to 126.

These statutes comprise three passed at the 1937 (Second) Session of the Legislative Assembly of Alberta and assented to on August 6, 1937, respectively entitled as follows:—

- Chapter 1. “An Act to provide for the Regulation of the Credit of the Province of Alberta:” Case, pp. 111 to 114; p. 115, ls. 1 to 19.
- 20 Chapter 2. “An Act to provide for the Restriction of the Civil Rights of Certain Persons:” Case, p. 115, ls. 20 to 33; p. 116, ls. 1 to 20.
- Chapter 5. “An Act to amend The Judicature Act:” Case, p. 119, ls. 14 to 32.

Authentic copies of these statutes were received by the Secretary of State for Canada on August 10, 1937, and by Order of the Deputy of His Excellency the Governor General in Council, dated August 17th, 1937: Case, p. 18, ls. 8 to 30, were, for the reasons set out in the annexed Report of the Right Honourable the Minister of Justice: Case, pp. 19 to 23; p. 24, ls. 1 to 7, disallowed.

By proclamation of His Honour the Lieutenant-Governor of the Province of Alberta, dated August 27, 1937, published in the issue of the *Canada Gazette* of 30 September 11, 1937, reciting the tenor of the said Order in Council and the Certificate of the Deputy of His Excellency the Governor General in Council under his sign manual and seal of the receipt of the said Acts, the disallowance of the said Acts was duly signified: Case, p. 24, ls. 9 to 34; p. 25.

Subsequently, at a special session of the Legislative Assembly of Alberta—the 1937 (Third) Session—three Bills were passed; but were, on October 5, 1937, reserved by His Honour the Lieutenant-Governor of Alberta for the signification

of the Governor General's pleasure. These Bills are entitled respectively as follows:—

*Bill 1.*—“An Act respecting the Taxation of Banks”;

*Bill 8.*—“An Act to Amend and Consolidate the Credit of Alberta Regulation Act”;

*Bill 9.*—“An Act to Ensure the Publication of Accurate News and Information.”

The full text of each of these Bills will be found in the Case: Bill 1, Case, p. 9, ls. 14 to 29; p. 10; p. 11, ls. 1 to 13; Bill 8, Case, p. 11, ls. 14 to 32; pp. 12, 13, 14; p. 15, ls. 1 to 13; and Bill 9, Case, p. 15, ls. 14 to 32; pp. 16, 17; p. 18, ls. 1 to 6.

10 In a formal submission to the Right Honourable the Prime Minister of Canada concerning these three reserved Bills, the Honourable William Aberhart, Premier of the Social Credit Government, suggested that if there were doubt as to the constitutional validity of “the Press Bill”: that is Bill 9, it might well be referred to the Courts for consideration; but as doubts existed or were entertained as to the legislative competence of the Legislature of the Province of Alberta to enact the provisions of each of the three Bills: Case, p. 8, ls. 24 to 31, questions concerning all three measures were, on the recommendation of the Right Honourable the Minister of Justice, referred to the Supreme Court of Canada for hearing and consideration: Case, p. 9, ls. 1 to 11.

20 4. Reserved Bill 1, entitled “An Act respecting the Taxation of Banks” (Case, p. 9, ls. 14 to 29; p. 10; p. 11, ls. 1 to 13) defines “bank” as meaning,—

“a corporation or joint stock company other than the Bank of Canada wherever incorporated and which is incorporated for the purpose of doing banking business or the business of a savings bank and which transacts such business in the Province whether the head office is situate in the Province or elsewhere”:  
Sec. 2 (a);

and “Minister” as meaning,—

“the Provincial Secretary”: Sec. 2 (b).

It provides that every bank which transacts business in the Province shall  
30 annually pay to the Minister on behalf of His Majesty for the use of the Province, in addition to any tax payable pursuant to any other Act, the following taxes, namely:

(a) a tax of one-half of one per centum on the paid-up capital thereof;

(b) a tax of one per centum on the reserve fund and undivided profits thereof: Sec. 3.

The taxes so imposed are required to be determined upon the amount of the paid-up capital stock or reserve fund and undivided profits thereon as the same stood on March 31st next preceding the year for which the taxes are imposed: sec. 4; and are made payable in the year 1937 on the sixtieth day after the Act comes into force, and in each subsequent year on the first day of April: Sec. 5. In case default is made in the payment of any tax so imposed on the day upon which it becomes due and payable, a penalty of five per centum of the amount of such tax shall be added thereto and thereafter a further penalty of one per centum per month shall be added for each additional month or portion thereof during which the tax  
10 and penalty remains unpaid: Sec. 6.

Every bank is required on or before a specified date to deliver in duplicate to the Minister such returns as the Minister may prescribe for the purpose of carrying out the provisions of the Act, duly verified by the oaths of certain designated officers: Sec. 7; and for default in complying with this requirement, the bank and the person or persons by whom the returns should be verified, each incur a penalty of twenty dollars for each day during which the default continues, and the bank is rendered liable to pay a tax of double the amount of the tax to which the return relates: Sec. 8.

There is also provision empowering the Minister, if default is made in the  
20 payment of any tax or penalty imposed by the Act, to enforce payment by levying distress (by means of a distress warrant addressed to the Sheriff of the appropriate judicial district) upon any of the goods or chattels in the Province of the person liable for the payment of any such tax or penalty; it is made the duty of the Sheriff to execute the warrant by the seizure, and unless he is sooner paid, by the sale of the goods and chattels seized: Sec. 9.

All sums payable on account of any tax or penalty payable pursuant to the Act are also made recoverable in an action by the Minister in the name of the Crown in the Supreme Court of Alberta as a debt due to the Crown: Sec. 10.

Finally the Minister is empowered to prescribe forms of returns to be made  
40 pursuant to the Act: Sec. 11.

5. Reserved Bill 8, entitled "An Act to Amend and Consolidate the Credit of Alberta Regulation Act" (Case, p. 11, ls. 14 to 32; pp. 12, 13, 14; p. 15, ls. 1 to 13) professes to amend and consolidate "The Credit of Alberta Regulation Act," cap. 1 (Second Session), 1937 (Case, pp. 111 to 114, p. 115, ls. 1 to 19), by which the Province purported to take over the operation of all branch banks within Alberta, although this Act was by the Order of the Deputy of His Excellency the Governor General in Council of August 17, 1937 (P.C. 1985): Case, p. 18, ls. 7 to 31, disallowed.

Bill 8 obviously re-enacts for all practical purposes the provisions of the disallowed Act section by section, and for the most part in identical language, except that throughout for the expressions "bank" and "banker" or "business of banking" in the disallowed Act, there are substituted the expressions "credit institution" and "business of dealing in credit." The definition of the latter expression though comprising some of the transactions embraced by the definition "banking business" in the disallowed Act, in terms, excludes therefrom "transactions which are banking within the meaning of the word 'banking' as used in sub-head 15 of sec. 91 of the British North America Act, 1867."

10 There are also several other noteworthy changes.

First, whereas the disallowed Act was introduced by the following preamble:

"WHEREAS Bank Deposits and Bank Loans in Alberta are made possible mainly or wholly as a result of the monetization of the credit of the People of Alberta, which credit is the basis of the credit of the Province of Alberta; and

WHEREAS the extent to which property and civil rights in the Province may be enjoyed depends upon the principles governing the monetization of credit and the means whereby such credit is made available to the Province and to the People collectively and individually of the Province; and

20 WHEREAS it is expedient that the business of banking in Alberta shall be controlled with the object of attaining for the People of Alberta the full enjoyment of property and civil rights in the Province": Case, p. 111, ls. 8 to 17;

Bill 8 is introduced by a preamble embodying only the second of the recitals, in identic terms, set forth in the preamble quoted above.

Secondly, Bill 8 deviates from the disallowed Act in respect of a provision which was not an essential part of that Act. The latter made provision for the licensing of all bank employees (sec. 4 (3)): Case, p. 12, ls. 8 to 15; and that provision was supported by a short separate Act: "The Bank Employees Civil Rights Act", cap. 2, Second Session, 1937: Case, p. 115, ls. 20 to 33; p. 116, ls. 1 to 20, the second of the disallowed Acts. The licensing provision for bank employees, is  
30 omitted from Bill 8.

Thirdly, the only other noteworthy change is in regard to penalties. In the disallowed Act a breach was punishable upon summary conviction by a fine of not less than \$5,000.00: (sec. 5): Case, p. 114, ls. 9 to 14. In Bill 8 there is substituted a civil proceeding and a penalty of \$10,000.00 for each day of unlicensed operation recoverable by action on behalf of the Crown by the Provincial Treasurer (sec. 5): Case, p. 14, ls. 15 to 22.

Subject to the above changes the provisions of the disallowed Act and of Bill 8 are substantially in identical language. The central feature of the Bill is that it provides by a system of compulsory licences—licences for the purposes of regulation, not of revenue—for exercising through a governmental agency supervision and control over the policy of every “credit institution,” which, at the time of the coming into force of the Act, is carrying on the “business of dealing in credit” within the Province “for the purpose of preventing any act by such credit institution constituting a restriction or interference either direct or indirect with the full enjoyment of property and civil rights by any person within the Province”. The expressions  
 10 “credit institution” and “business of dealing in credit” and other expressions used in the Bill are defined by section 2 as follows:

- “ (a) ‘Credit Institution’ means a person or corporation whose business or any part of whose business is the business of dealing in credit;
- “ (b) ‘Business of dealing in credit’ means all business transactions in the Province of a credit institution or any other person except The Bank of Canada, whereby credit is created, issued, lent, provided or dealt in by means of bookkeeping entries, in any case and at any time when the aggregate amount of all credit so created, issued, lent, provided or dealt in is in excess of the total amount of legal tender in the possession of the credit  
 20 institution so creating, issuing, lending, providing or dealing in such credit; and includes the following transactions relating to any credit so created, issued, lent, provided or dealt in, namely, the ‘payment of cheques or other negotiable instruments made, drawn or paid in by customers, the making of advances and the granting of overdrafts; but does not include transactions which are banking within the meaning of the word ‘banking’ as used in subhead 15 of section 91 of The British North America Act, 1867’.
- (c) ‘Local Directorate’ means a Local Directorate constituted pursuant to section 4 of this Act;
- (d) ‘Provincial Credit Commission’ means the Commission constituted pursuant  
 30 to section 4 of The Alberta Social Credit Act;
- (e) ‘Social Credit Board’ means the Board constituted pursuant to section 3 of The Alberta Social Credit Act.”

It will be noted that by the definitions of “Provincial Credit Commission” and “Social Credit Board” in section 2 (d) and (e), and by the provisions of the Bill conferring duties and powers upon these bodies respectively (see secs. 3, 4 and 8), the administration of the provisions of Bill 8 is linked up with the main Social Credit measure, “The Alberta Social Credit Act”, cap. 10, First Session, 1937: Case, p. 85,

ls. 20 to 33, pp. 86 to 103. Under that Act the Social Credit Board is constituted the supreme social credit authority in Alberta and also a committee of the Legislative Assembly (sec. 3): Case, p. 88; and under the Board is also constituted a further body, "The Provincial Credit Commission", which is made a body corporate and charged with many technical duties (secs. 4 and 5): Case, p. 89, ls. 6 to 34; p. 90; p. 91, ls. 1 to 11.

The main features of the project of legislation embodied in Bill 8 are as follows:

(1) Every credit institution carrying on the business of dealing in credit within  
10 the province at the time of the coming into force of the Act is required to take out a licence within twenty-one days thereafter from the Provincial Credit Commission (sec. 3 (1)); Case, p. 12, ls. 20 to 24. It is suggested that this provision applies only to the existing credit institutions, not the future ones.

(2) Every application for a licence by any such credit institution is required to be accompanied by an undertaking signed by the applicant "whereby the applicant undertakes to refrain from acting or assisting or encouraging any person or persons to act in a manner which restricts or interferes with the property and civil rights of any person or persons within the Province (sec. 3 (3)): Case, p. 12, ls. 28 to 33.

20 (3) Operation without a licence subjects a credit institution to a penalty of \$10,000 for each day of unlicensed operation, recoverable in a civil action (sec. 5): (Case, p. 14, ls. 15 to 22), and the Provincial Credit Commission may at any time, and without notice, suspend, revoke or cancel the licence of any credit institution which commits a breach of the undertaking referred to above, subject to a right of appeal to the Social Credit Board, except in the case of a credit institution against whom a judgment for penalty has been entered pursuant to section 5 "for acting, or assisting or encouraging any person or persons to act in a manner which restricts or interferes with the property and civil rights of any person or persons within the Province" (sec. 3 (4) and (5)): Case, p. 12, ls. 34-35; p. 13, ls. 1 to 8.

30 The annual licence fee required to be paid is not to exceed \$100 in respect of every building within the Province in which the business of the credit institution is conducted (sec. 3 (6)); Case, p. 13, ls. 9 to 12.

If the licence of any credit institution has been suspended, revoked or cancelled under sec. 3 (5), the Provincial Credit Commission is empowered to fix a fee in excess of the \$100 fee provided in section 3 (6) for renewing the licence or issuing a new licence "always provided that such increased fee shall not exceed one thousand times the fee paid or required to be paid in respect of the licence last issued to such person" (sec. 3 (7)); Case, p. 13, ls. 14 to 19.



(4) Immediately after application for licence by any credit institution, and before its issue, one or more local directorates (the number of which shall be in the absolute discretion of the Social Credit Board) are required to be appointed "to supervise, direct and control the policy of the business of dealing in credit of such institution . . . for the purpose of preventing any act by such credit institution constituting a restriction or interference, either direct or indirect, with the full enjoyment of property and civil rights by any person within the Province" (sec. 4 (1)), Case, p. 13, ls. 20 to 28.

Each local directorate is to consist of five persons, three of whom are to be  
 10 appointed by the Social Credit Board and two by the credit institution in respect of which the local directorate has been appointed; and the Board is empowered at any time for any cause it deems sufficient to dismiss any member of the local directorate appointed by such Board, and to appoint a substitute (sec. 4 (2) and (3)): Case, p. 13, ls. 29 to 35. Similarly, members of the local directorate appointed by the credit institution hold office during the pleasure of the institution, and a vacancy in such membership may be filled by an appointment by the institution (sec. 4 (4) and (5)): Case, p. 14, ls. 1 to 9.

(5) The Provincial Credit Commission is empowered, subject to the approval of the Lieutenant-Governor in Council, to make regulations not inconsistent with  
 20 the Act prescribing, *inter alia*, the rules of procedure in respect of applications for licences and other proceedings under the Act, the forms of licences and of applications therefor; the fees to be paid for licences; "the privileges, terms, conditions, limitations and restrictions to be granted to or observed by any licensee," "the conditions upon which licences may be issued" and revoked, suspended or withheld; and the collection of fees (sec. 8): Case, p. 14, ls. 28 to 35; p. 15, ls. 1 to 10.

(6) Finally the Bill provides: "No provisions of this Act shall 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" (sec. 7.): Case, p. 14, ls. 25 to 27.

6. Reserved Bill 9, entitled "An Act to ensure the Publication of Accurate News  
 30 and Information" (Case, p. 15, ls. 22 to 26) after reciting in the preamble,—

"WEREAS it is expedient and in the public interest that the newspapers published in the Province should furnish to the people of the Province statements made by the authority of the Government of the Province as to the true and exact objects of the policy of the Government and as to the hindrances to or difficulties in achieving such objects, to the end that the people may be informed with respect thereto".

immediately proceeds, by sec. 2 (a) defining "Chairman" as meaning "The Chairman of the Board constituted by sec. 3 of the Alberta Social Credit Act:" (Case p. 85, ls. 20 to 33; pp. 86 to 103), to link up the administration of this measure with that of the main Social Credit Act. To this Chairman, as will appear from a scrutiny of the provisions of the Bill, are given dictatorial powers over each newspaper ("an expression comprehensively defined" by sec. 2 (b): Case, p. 16, ls. 1 to 8) published within the Province of Alberta.

Section 3, consisting of a principal subsection and of six other subsidiary subsections, is the main section of the Bill. By subsection 1, every person who is the  
10 proprietor, editor, publisher or manager of any newspaper published in the Province, shall, when required so to do by the Chairman, publish in that newspaper any statement furnished by the Chairman which has for its object the correction or amplification of any statement relating to any policy or activity of the Government of the Province published by that newspaper within the next preceding thirty-one days: Case, p. 16, ls. 9 to 15.

By subsections 2 and 3, every such statement shall have written upon it at the foot thereof a certificate in the following words: "The foregoing statement is published by the direction of the Chairman of The Social Credit Board", and shall be printed with the type ordinarily used in the printing of the newspaper: Case, p.  
20 16, ls. 16 to 21.

By subsection 4, the length of any statement required to be published shall not exceed the length of the statement corrected thereby and such statement shall be given the same prominence as to position, type and space as the statement corrected thereby: Case, p. 16, ls. 22 to 24.

By subsection 5, every requirement by the Chairman for the publication of any statement shall be in writing signed by the Chairman, and shall be deemed to have been made upon the receipt of the requirement together with the statements referred to therein at the office or usual place of business of any of the following persons, namely, the proprietor, editor, publisher or manager of the newspaper: Case, p. 16,  
30 ls. 25 to 29.

By subsection 6, every statement so required to be published in a newspaper shall be submitted in the language used in the publication of such newspaper, and shall be published in the next regular issue thereof after the day upon which the requirement for the publication thereof referred to in subsection (5) is received at the office or usual place of business of any of the persons specified in that subsection: Case, p. 16, ls. 30 to 35.

By subsection 7, no statement required to be published pursuant to this Act shall contain any notice or other matter the publication of which is required to be made pursuant to any other statute or which is ordinarily published as advertising: Case, p. 17, ls. 1 to 3.

Section 5 professes to render the proprietor, editor, publisher, manager or printer of any newspaper required to publish any statement pursuant to the provisions of section 3, immune from any action for libel in respect of the publication of such statement: Case, p. 17, ls. 14 to 18.

Section 4 is an independent provision. It gives the Chairman a general right to **10** require the proprietor, editor, publisher or manager of any newspaper within twenty-four hours after the delivery of a requisition to make a return in writing setting out every source from which any information emanated, as to any statement contained in any issue of the newspaper published within sixty days of the making of the requisition, the names, addresses and occupations of all persons by whom such information was furnished to such newspaper, and the name and address of the writer of any editorial, article or news item contained in any such issue of the newspaper: Case, p. 17, ls. 4 to 13.

Section 6 vests in the Lieutenant-Governor in Council on the recommendation of the Chairman drastic authority over newspapers in respect of any contraventions **20** of the provisions of the Act. It provides:—

“6. In case the proprietor, editor, publisher or manager of any newspaper has been guilty of any contravention of any of the provisions of this Act the Lieutenant-Governor in Council, upon the recommendation of the Chairman, may by order prohibit,—

- (a) the publication of such newspaper either for a definite time or until further order;
- (b) the publication in any newspaper of anything written by any person specified in the order;
- (c) the publication of any information emanating from any person or **30** source specified in the order: Case, p. 17, ls. 19 to 28.

Section 7 provides for pecuniary penalties. It reads as follows:—

“7. (1) Every person who contravenes any of the provisions of this Act or who makes any default in complying with any requirement made in pursuance of this Act shall be liable to a penalty not to exceed five hundred dollars.

(2) Every person who contravenes any of the provisions of any order in council made pursuant to section 6 of this Act shall in respect of every such contravention be liable to a penalty not to exceed one thousand dollars.

(3) Any penalty which any person is liable to pay pursuant to any provision of this Act shall be recoverable either by suit brought by the Chairman in any court of competent civil jurisdiction, or upon summary conviction upon the information or complaint of the Chairman or of some person authorized in writing by the Chairman to lay such information." Case, p. 17, ls. 29 to 34; p. 18, ls. 1 to 5.

10 7. Each of the three questions referred raises, in substance, the same point, namely, whether the provisions of the Bill therein referred to, and outlined in paragraphs 4, 5 and 6 above, falls within the legislative competence of the Legislature of the Province. The determination of this question turns on the construction to be placed on sections 91 and 92 of the British North America Act, 1867. For convenience of reference the full texts of these sections are reproduced in the Appendix to this Factum; but the classes of subjects therein enumerated which appear to be of particular relevance in the consideration of the questions referred are the following:—

20 "91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say,—

\* \* \* \* \*

2. The Regulation of Trade and Commerce.

\* \* \* \* \*

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14. Currency and Coinage.

15. Banking, Incorporation of Banks, and the Issue of Paper Money.

16. Savings Banks.

\* \* \* \* \*

18. Bills of Exchange and Promissory Notes.

19. Interest.

20. Legal Tender.

\* \* \* \* \*

27. The Criminal Law . . . . .

\* \* \* \* \*

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.”

10

“92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say,—

\* \* \* \* \*

2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.

3. The borrowing of Money on the sole Credit of the Province.

\* \* \* \* \*

9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.

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\* \* \* \* \*

11. The Incorporation of Companies with Provincial objects.

\* \* \* \* \*

13. Property and Civil Rights in the Province.

14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

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15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

16. Generally all Matters of a merely local or private Nature in the Province.”

## PART II

## SUBMISSION OF THE ATTORNEY-GENERAL OF CANADA

8. The Attorney-General of Canada will contend for the reasons hereinafter set forth that the provisions of each of the Bills in question, namely, Bills 1, 8 and 9, are, in their entirety, *ultra vires* of the Legislature of the Province, and that each of the three questions referred to this Honourable Court should, accordingly, be answered in the negative.

## PART III

## ARGUMENT

10 9. *Leading Constitutional Propositions.*—In the interpretation of the foregoing provisions of the British North America Act, the following propositions relative to the legislative competence of the Parliament of Canada and of the Provincial Legislatures, respectively, were laid down by the Judicial Committee of the Privy Council in *Attorney-General for Canada v. Attorney-General for British Columbia* (1930) A.C. 111, 118, reaffirmed in the case of *In re Regulation and Control of Aeronautics in Canada* (1932) A.C. 54, 71, 72, and cited with approval in *Re Silver Brothers Limited*, (1932) A.C. 514, 520, 521, as having been established by the decisions of that Board:—

20 (1) The legislation of the Parliament of the Dominion, so long as it strictly relates to subjects of legislation expressly enumerated in s. 91, is of paramount authority, even though it trenches upon matters assigned to the provincial legislatures by s. 92; see *Tennant v. Union Bank of Canada* (1894) A.C. 31.

30 (2) The general power of legislation conferred upon the Parliament of the Dominion by s. 91 of the Act in supplement of the power to legislate upon the subjects expressly enumerated must be strictly confined to such matters as are unquestionably of national interest and importance, and must not trench on any of the subjects enumerated in s. 92 as within the scope of provincial legislation, unless these matters have attained such dimensions as to affect the body politic of the Dominion: see *Attorney-General for Ontario v. Attorney-General for the Dominion* (1896) A.C. 348.

(3) It is within the competence of the Dominion Parliament to provide for matters which, though otherwise within the legislative competence of the

provincial legislature, are necessarily incidental to effective legislation by the Parliament of the Dominion under a subject of legislation expressly enumerated in s. 91; see *Attorney-General for Ontario v. Attorney-General for the Dominion* (1894) A.C. 189; and *Attorney-General for Ontario v. Attorney-General for the Dominion* (1896) A.C. 348.

10 (4) There can be a domain in which provincial and Dominion legislation may overlap, in which case neither legislation will be *ultra vires* if the field is clear, but if the field is not clear and the two legislations meet the Dominion legislation must prevail; see *Grand Trunk Ry. of Canada v. Attorney-General of Canada* (1907) A.C. 65.

10. *Principles of Interpretation applicable.*—In determining whether the Bills now in question, or any of them, can receive effect as a lawful exercise of the legislative authority of the legislature of the province, the following principles of interpretation are applicable,—

20 (1) “The courts must ascertain the ‘true nature and character’ of the enactment”: *Citizens’ Insurance Co. v. Parsons* (1871) 7 A.C. 96; “its ‘pith and substance’”: *Union Colliery Co. v. Bryden* (1899) A.C. 580, 587; and it is the result of this investigation, not the form alone which the statute may have assumed under the hand of the draughtsman, that will determine within which of the categories of subject matters mentioned in secs. 91 and 92 the legislation falls; and for this purpose the legislation must be “scrutinized in its entirety”: *Great West Saddlery Co. v. The King* (1921) 2 A.C. 91, 117; “. . . where the law-making authority is of a limited or qualified character, obviously, it may be necessary to examine with some strictness the substance of the legislation for the purpose of determining what it is that the Legislature is really doing”: *Attorney-General for Ontario v. Reciprocal Insurers* (1924) A.C. 328, 337;

30 (2) In the determination of the true “aspect” of a particular enactment, in relation to legislative powers distributed under the *British North America Act, 1867* between the Dominion Parliament on the one hand and the Provincial Legislatures on the other, it is to be understood that by “aspect” is meant, under the decisions, the aspect or point of view of the legislator in legislating—the object, purpose and scope of the legislation: that the word is used subjectively of the legislator rather than objectively of the matter legislated upon: *Lefroy’s Canada’s Federal System*, p. 200; *Lefroy’s Legislative Power in Canada*, p. 394.

(3) "One of the questions to be considered is always whether in substance the legislation falls within an enumerated class of subject, or whether, on the contrary, in the guise of an enumerated class it is an encroachment on an excluded class. On this issue the legislative history may have evidential value": *Proprietary Articles Trade Association v. Attorney General for Canada* (1931) A.C. 310, 317; and as was said in another decision, "When the power is conferred to legislate on a particular topic, it is important in determining the scope of the power to have regard to what is ordinarily treated as embraced within that topic in legislative practice and particularly in the legislative practice of the State which has conferred the power": *Croft v. Dunphy* (1933) A.C. 156, 165. Thus, in *Attorney General for Quebec v. Nipissing Central Railway Co.* (1926) A.C. 715, 721, reference was had to the history of the railway Acts as supporting the construction put upon section 189 of the Railway Act of 1919; In *Royal Bank v. Larue* (1928) A.C. 187, 198, 199, in considering what might be appropriately and legitimately enacted by the Dominion Parliament under its power to legislate in relation to "bankruptcy and insolvency", the Board considered it relevant to discuss the usual contents of bankruptcy statutes; and in *Croft v. Dunphy* (1933) A.C. 156, 165, 166, the Board referred to the history of British customs legislation as indicating the improbability that the Imperial Parliament in bestowing plenary powers on the Dominion Parliament to legislate in relation to customs should have withheld from it the power to enact anti-smuggling provisions taking effect outside ordinary territorial limits. Other decisions are illustrative of the same method of interpretation, namely, that of calling history in aid of interpretation: *Hirsch v. Protestant School Commissioners of Montreal* (1928) A.C. 200, 207; *Roman Catholic Separate School Trustees v. The King* (1928) A.C. 363; *Attorney General of Nova Scotia v. Legislative Council of Nova Scotia* (1928) A.C. 107, 109; *Edwards v. Attorney General for Canada* (1930) A.C. 124, 131; *In re Transfer of Natural Resources to the Province of Saskatchewan* (1932) A.C. 28, 33. So also economic theory has been invoked in aid of the interpretation of the British North America Act: *Bank of Toronto v. Lambe* (1887) 12 A.C. 575, 581, 582, 583.

(4) The principle enunciated in paragraph (2) above and the decisions there referred to are, it is submitted merely illustrative of a wider principle of construction of special application in the circumstances of the present Reference, namely, that for the purpose of ascertaining (in an old phrase) "the intent of the makers of statutes", it is legitimate to have regard not only to the cause and necessity of the Act being made and to a comparison of its several parts, but to extraneous circumstances so far as they can justly be considered to throw light



upon the subject: *Stradling v. Morgan* 1 Plow. 203, 205; *Hawkins v. Gathercole*, 6 De G. M. and G. 1, 22; *Viscountess Rhondda's Claim* (1922) 2 A.C. 339, 369, 370. In *Herron v. Rathmines and Rathgar Improvement Commissioners* (1892) A.C. 498, 502, Lord Halsbury, L.C. said:

“It is quite true that the subject-matter with which the legislature was dealing, and the facts existing at the time with respect to which the legislature was legislating, are legitimate topics to consider in ascertaining what was the object and purpose of the legislature in passing the Act they did.”

10 and he went on to consider the local facts with relation to which the local Act under consideration was passed.

And, of course, it is well settled that where statutes are *in pari materia*, the rule laid down by the twelve judges in *Palmer's Case* (1853) 22 L. J. Bank. 21, is applicable, namely, that such Acts “are to be taken together as forming one system and as interpreting and enforcing each other”, or, as was said by Lord Mansfield in *R. v. Loxdale* (1758) 1 Burr. 445, 447, “Where there are different statutes *in pari materia*, though made at different times or even expired and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other”.

20 11. The Order in Council of November 2, 1935 (P.C. 2749), in terms recites “that it has been and it is the avowed object of the present Government of the Province of Alberta (since its advent to office in September, 1935) to inaugurate in the said Province ‘a new economic order’ upon the principles or plan of the theory known as Social Credit”: Case, p. 5, ls. 12 to 15; Appendix, pp. 110, 113; and this the legislation, passed at the instance of the Social Credit Government, abundantly attests: see. e.g. Case, pp. 29, 30, 31, ls. 1 to 9; and in particular p. 29, ls. 21 to 25; p. 35, ls. 20 to 31; pp. 36 to 45; p. 85, ls. 21 to 33; pp. 86 to 103; pp. 111 to 115, ls. 1 to 19; p. 116, ls. 22 to 30; p. 117; p. 118, ls. 1 to 15.

30 In the submission of the Attorney General of Canada, it is not only legitimate but necessary as a background to the proper consideration of the three reserved Bills in question to outline briefly the principles of the theory of Social Credit; the legislative efforts and scheme by which the Social Credit Government has sought to bring about the establishment of a new economic order in the Province of Alberta on the basis of those principles, and generally the circumstances of public notoriety which led up to and surrounded the passing of the said Bills and of the legislation with which they are linked.

It is only in the setting or *milieu* supplied by the foregoing considerations that the true nature and character of those Bills, their real aspect, their pith and substance, will stand in a clear light and the classes of subject to which they really belong correctly ascertained.

1935  
**12. Historical facts and surrounding circumstances.**—At the Provincial General Election held in Alberta on August 22nd, 1935, the Social Credit Party, led by Mr. William Aberhart, were successful in bringing about the election of a majority of the Members of the Legislative Assembly; and Mr. Aberhart was, in consequence, called upon to form a Government and did so.

10 At the First Session of the Eighth Legislative Assembly of Alberta opened on February 6th, 1936, as foreshadowed in the Speech from the Throne, there was introduced by the Government and enacted the Government's first Social Credit measure, "The Social Credit Measures Act," Chapter 5 of 1936 (First Session): Case pp. 29, 30; p. 31, ls. 1 to 9.

This was followed at the 1936 (2nd Session) of the Legislature of Alberta by the enactment of "The Alberta Credit House Act," Chapter 1 (Second Session) 1936: Case, p. 35, ls. 20 to 31; pp. 46 to 45, which, in effect, authorized the setting up of a credit house and branches thereof with facilities, but without the power, to issue notes and provided for the registration of producers, manufacturers or dealers in  
 20 commodities and of all individuals qualified to participate in the dividend.

1937  
 Main Act  
 At the 1937 (First Session) of the Legislature of Alberta there was enacted "The Alberta Social Credit Act," Chapter 10, 1937 (First Session), which, by sec. 49, repealed "The Social Credit Measures Act" and "The Alberta Credit House Act": Case, p. 85, ls. 19 to 33; pp. 86 to 103. This statute constitutes the Government's main Social Credit measure, and, *inter alia*, created the Social Credit Board composed of the several members named in sec. 3 thereof. Its provisions are hereinafter fully detailed.

At the opening of the 1937 (Second Session) of the Legislature of Alberta, the government was able to announce in the Speech from the Throne:

30 "My Government has received the Report of the Social Credit Board and its technical advisers, and you will be asked to give earnest consideration to certain legislative enactments as a result of the Report. In addition some amendments to existing legislation will require your attention" (App. p. 113).

The measures so foreshadowed and subsequently passed at this Session of the Legislature included "The Alberta Social Credit Act Amendment Act, 1937," Chapter 3, 1937 (Second Session) (Case, p. 116, ls. 22 to 30; p. 117; p. 118, ls. 1 to 15), by which provision was made for the appointment of a temporary Provincial Credit

Commission, and the Social Credit Board was empowered, with the approval of the Lieutenant-Governor in Council, to do such acts and things as it might from time to time deem proper "for the purpose of promoting, conserving and enhancing the social credit of the Province": Case, p. 117, ls. 18 to 25. There were also enacted at this Session of the Legislature, "The Credit of Alberta Regulation Act": Case, pp. 111 to 114; p. 115, ls. 1 to 19; "The Bank Employees Civil Rights Act"; Case, p. 115, ls. 21 to 33; p. 116, ls. 1 to 20; and "The Judicature Act Amendment Act, 1937": Case, p. 119, ls. 15 to 32; being Chapters 1, 2 and 5 respectively, of the Statutes of the 1937 (Second Session). These three Statutes, all assented to on 10 August 6, 1937, are the Statutes which by Order of His Excellency the Governor General in Council of August 17, 1937 (P.C. 1985) (Case, p. 18, ls. 8 to 30), were disallowed.

Arising out of the disallowance of these Statutes, a Special Session of the Legislative Assembly of Alberta—1937 (Third Session)—was summoned and opened on September 24, 1937. In the Speech from the Throne it was stated:

20 "The necessity of the Special Session would indicate to you that grave difficulties must be overcome if the mandate of Our People is to be implemented . . . . At this Special Session you will be called upon to deal with certain conditions affecting the credit situation in our Province. Legislation will be presented to you for the purpose of liberating credit facilities which will enable Our People to enjoy the full benefit of their own production." (App. p. 114.)

The measures thus foreshadowed included the three bills now under consideration on this Reference, namely,

Bill 1, "An Act Respecting the Taxation of Banks";

Bill 8, "An Act to amend and Consolidate the Credit of Alberta Regulation Act"; and

Bill 9, "An Act to Ensure the Publication of Accurate News and Information"; all of which were, on October 5th, 1937, reserved by His Honour the Lieutenant-30 Governor of Alberta for the signification of the Governor General's pleasure: Case, p. 8, ls. 1 to 13.

### 13. Essential elements of the Social Credit theory:

The Order in Council referring the questions now under consideration to this Court states, as has already been noted, that it has been, and is, the avowed object of the present Government of the Province of Alberta (since its advent to office in September, 1935) to inaugurate in the province "a new economic order" based upon the principles or plan of the theory known as Social Credit and that this government has since then secured the enactment by the Alberta Legislature of a

certain number of statutes more or less directed to the policy of effectuating that object. (Case, p. 5, ls. 12-19). Social Credit is also frequently referred to in the legislation mentioned in this Order in Council.

It is considered by the Attorney-General of Canada that an explanation of the theory of Social Credit is called for by these statements in the Order in Council and is required fully to understand certain unusual expressions to be found in the bills under consideration and the related legislation mentioned in the Order in Council, as well as to appreciate the real purport and effect of such legislation. An endeavour will be made to explain, as briefly as possible, only that part of the  
10 system which is considered relevant for the above mentioned purposes.

The objective of the proponents of Social Credit is to increase the purchasing power of the consuming public which is held to be insufficient, this insufficiency being considered to be the chief cause, if not the only cause, of the present economic evils. These proponents believe they have the only, or at least the best, means of attaining that result.

In the first place, the public is to obtain goods and services required by them for themselves or their households at a discount, fixed by government authority, from the regular price which apparently is to be a "just price," i.e., a fixed price.

The retailer of these goods and services, who is thus made to sell at a loss, shall  
20 be compensated by a government agency through a credit being given him in his deposit account in that agency for the amount of this discount.

The public is further to receive a periodical dividend to be credited to them in these deposit accounts.

These are the principal elements of the system.

The problem of how this can be provided by the government without becoming bankrupt is solved in this way: The proponents of the system believe that at present the banks possess the power of creating, by mere book-keeping entries, credit and credit instruments, namely, checks, that function as money without any cost to themselves and that they have the monopoly of this power. The way this is done  
30 is that they make a loan to a customer by merely crediting his account with the amount of that loan, in other words, by a mere book-keeping entry. A deposit is thus created by the loan and against this deposit cheques are drawn, which cheques function as money. The credit is thus created by the loan and when that loan is repaid the credit is cancelled. The banks, of course, charge interest on that loan although it has cost them nothing except the clerical work of making the entries in the books. It is claimed by the proponents of Social Credit that it is improper that the banks should possess that tremendous power and thereby enrich themselves beyond reason, and that the power should be appropriated by the government. The government by doing the same thing exactly, namely, making a book

*Social Credit*

entry which creates a deposit and allowing cheques to be drawn against that deposit, will in the same way create credit as the banks now do. According to this view, the government can as the banks can do it to an indefinite amount, being restrained only by the necessity to avoid inflation.

The difference in the method of dealing of the government and that of the banks would be that the government would not lend its credit, at least generally speaking; it would give it directly by dividends or indirectly by discounts as above mentioned. Additional to these two principal operations tending to increase the purchasing power of the public, it would be provided that in exceptional cases, such as when a citizen needs more than his share of public credit for an exceptional expenditure, e.g., building a house or starting in business, he can borrow such credit, but the borrowing would be without interest. Further, this unlimited power to create credit could be used by the government agency to finance the government budget, thus eliminating taxation. The government institution would, of course, be charged with the function, now held by banks and exercised for their own selfish purposes, of avoiding excessive inflation or excessive deflation. Finally, this government institution should be able to provide itself with sufficient normal currency, acceptable outside the limits of the territory subject to the jurisdiction of the government, for extra-territorial settlements.

20 This necessarily involves the elimination of the banks from the territory, or the effective control of them and the restriction of their powers. It is obvious that if the government institution merely competes with the banks in this function, in the first place, there will be two independent authorities controlling inflation and deflation; in the second place, there is a danger of all currency deposits being made with the banks and the government institution being unable to get currency; and, in the third place, the most satisfactory loans, from the lender's point of view, will be made by the banks, as borrowers with good security will prefer to have currency and pay interest than this substitute for money.

30 However, whether this scheme is to be carried on in competition with the banks or as a government monopoly with the banks excluded from it, it is submitted that in either case, assuming always that the above mentioned statement is correct, the legislation needed to provide for it is banking legislation of the most obvious kind. It is admitted that the function in which the government desires to enter, in lieu of the banks or in competition with them, is a function which at present is a monopoly of the banks. It is the function of making loans, accepting and holding deposits and allowing cheques to be drawn against them. It is, therefore, obviously banking even if the banks are allowed to compete in the same field and it is even more so banking when, as is obviously essential to the success of the

scheme, the monopoly of the banks is taken from them and made a government monopoly with them ousted from the field.

Ample justification for this summary, which is admittedly incomplete but which, it is submitted, is sufficient for the purpose of this reference, can be found both in the literature of Social Credit and in the statements issued under the authority of the Government, or of governmental agencies of the province, or of members of the Alberta executive responsible for the adoption by the Legislature of the scheme.

The originator of this plan and leading authority in regard to it is, as is well  
 10 known, Major C. H. Douglas, a Scottish engineer. This will not be disputed: he is so acknowledged in the "Encyclopedia of Social Sciences," vol. 8, 1932, p. 642. He gave evidence before the Agricultural Committee of the Alberta Legislature during the session of 1934 in support of this scheme. He was later retained by the Alberta Government to advise in respect of its adoption and he made an interim report to that Government dated the 23rd of May, 1935.

In the Speech from the Throne at the opening of the First Session of the 8th Legislative Assembly of Alberta, February 6th, 1936, it was stated:

"The two-year engagement of C. H. Douglas of London, England, as  
 Reconstruction Economic Adviser by my former Government will no doubt  
 20 be used by my present Government to advance the introduction and establishment of Social Credit principles within the Province and measures looking to the formulation and adoption of a plan based upon the principles of Social Credit will be submitted for your consideration."

Major Douglas published a book on the subject of which there have been three editions—the third edition is of 1935, and is to be found in the Parliamentary Library. The book is entitled "Social Credit, C. H. Douglas, Revised Edition." A few extracts from this book will be now quoted which, all pieced together, justify the above statements. Some of the words used are italicized for convenience of reference. At pp. 87 and 88 there appears the following:

30 "Now this theorem that *bank loans create bank deposits*, and the deduction from it that the repayment of bank loans destroys deposits, is vital to an understanding of the process we have been discussing. The deficiency between purchasing power, and goods with money prices attached to them, can be made up (at any rate to a large extent) by *this process of creating bank money*. This enables the business cycle to be carried through. And conversely, the refusal to create fresh money by banking methods or otherwise, whatever the cause of this refusal may be, is sufficient to paralyze both production and consumption."

At p. 99:

“To put the matter in a form of words which will be useful in our further consideration of the subject, the consumer cannot possibly obtain the advantage of improved process in the form of correspondingly low prices, nor can he expect stable prices under stationary processes of production, nor can he obtain any control over the program of production, unless he is provided with a supply of purchasing power which is not included in the price of the goods produced. If the producer or distributor sells at a loss, this loss forms such a supply of purchasing power to the consumer; but if the producer and the distributor are not to sell at a loss, this supply of purchasing power must be derived from some other source. There is only one source from which it can be derived, and that is the same source which enables a bank to lend more money than it originally received. That is to say, the general credit.”

At p. 100:

“It may now be possible to see with some degree of clearness the difficulties in which those institutions and organizations which control the general credit of the present time find themselves. It is true enough that *they can manufacture ‘money’* to an *almost unlimited* extent; this power resting on the general willingness of the public to accept anything that will function as money. But the psychology which has grown up on the basis of the theory of rewards and punishments forbids the exercise of this power except in return for services rendered.”

At p. 134:

“We have already seen that the result of a loan by a bank is to increase the amount of collective deposits on which the bank’s customers can draw; which deposits, of course, function as money. The repayment of these loans destroys these deposits, and thus destroys effective demand. This *process of creating purchasing power by means of book entries* has, however, a further extension of far reaching importance, which can be grasped perhaps by a consideration of the method by which Great Britain financed the war of 1914-1919.”

Attention is drawn to the expression in this quotation, “This process of creating purchasing power by means of book entries,” etc. These words will be met in the legislation and this will be helpful in determining what they mean. At pp. 137, 138, 139 and 140:

“A considerable amount of this money (some of which may be in excess of the figures just mentioned) was created through what are known as the Ways and Means Accounts, and the working of this is described in the first

report of the Committee on Currency and Foreign Exchanges, 1918, p. 2. Paraphrased, the process may be shortly explained as follows:

‘ If ten million pounds credit is advanced at the Bank of England to the credit of Public (i.e. State) Deposits (which simply involves the writing up of the Public Deposits account by this amount), this amount is paid out by the Spending Departments to contractors in payment for their services, and when the cheques are cleared, passes to the credit of the contractors’ bankers (Joint Stock Banks) account with the Bank of England.

10 The Joint Stock Banks are accustomed to regard their credits with the Bank of England as cash at call and, therefore, ten million pounds is credited to the depositors of the Joint Stock Banks, and ten million pounds to the Joint Stock Banks’ cash account.

As a result of this, the Joint Stock Banks, working on a ratio of one to four, between so-called cash and short date liabilities, are able to allow their customers (working on Government Contracts) overdrafts to the extent of forty millions, a portion of which their customers may devote to taking up Treasury Bills or War Loans. The banks themselves may take up about eight millions of Treasury Bills or War Loan, out of their additional ‘ deposit ’ balances, or they may lend about eight millions to the Bank of England to lend to the Government. Eventually the result is the same, namely that the Government owes 20 forty millions to the banks, through the Bank of England.

Now the first point to notice is that the result of this complicated process is exactly the same as if the Government had provided forty millions, in Currency Notes, with the important exception that the public pays 4 or 5 per cent per annum on the forty millions, instead of merely paying the cost of printing the Currency Notes. The effect on prices, while the forty millions is outstanding, is the same, and the contractors pay 6 or 7 per cent for their overdrafts instead of getting the use of the money free. But if the forty millions is redeemed through taxation, or a Capital Levy, the public pays not only the 5 30 per cent per annum, together with the contractor’s 6 or 7 per cent, plus a profit on both of them, but it pays the whole of the forty millions out of money which has been received in respect of wages, salaries, and dividends. So far as I am aware, no one has ever suggested that Currency Notes should be retired by taxation. It is true that when this forty millions has been repaid, both the original debt and the repayment cancel each other, and only the interest charges go to the Profit and Loss Account of the Bank. But since, as we have seen, the repayment of bank loans means the immobilization of an equivalent amount of price values, this only means that a fresh loan with fresh interest charges



has to be created. A consideration of these facts will make it easy to understand the implacable opposition of bankers and financiers to government paper money and their insistence upon the importance of what they term redemption. The payment in current taxation of only one-sixth of the price of war stores, etc., meant, therefore, that a credit grant of the other five-sixths of the price was made to the Public. The repayment of this credit is only justifiable on the assumption that banks own Public Credit.’”

At p. 143:

10 “The beauty of the transaction, however, is only seen in its entirety when it is recognized that the repayment of the loan, either by taxation or otherwise, unlike *the repayment of the costless book credit which originally created it*, does not mean its extinction, but merely its re-transformation into the form of purchasing power, since the sinking fund represents a cash payment to the holders of the loan in return for their securities. The public will therefore pay the interest and sinking fund for the term of the loans in order to get back the use of their money—and as the banks would be likely to hold most of the loan, the latter would get the money.”

Attention is called to the expression, “costless book credit,” in this quotation.

At p. 144:

20 “It may be asked why banks only pay a dividend of 25 per cent or so. The answer is simple.

Their real earnings are measured by the control over industry which they acquire—earnings so rapid that in a few years the control will be absolute, if not checked. The amount distributed in dividends is, or could be, any desired dividend on this capital control.”

These passages show very clearly that the granting of credit by these banks costs them nothing.

At the end of the book (p. 205) there is a draft Social Credit Scheme for Scotland, which is fairly brief and clear:

30

“DRAFT SOCIAL CREDIT SCHEME FOR SCOTLAND

“(1) Obtain from existing sources, such as company balance-sheets, land registration offices, and insurance companies, such information necessary to place a *money* valuation upon the whole of the capital assets of Scotland, such as lands, roads, bridges, railways, canals, buildings, drainage and water schemes, minerals, semi-manufactured materials. No distinction between public and private property. Replacement values to be used where the property is in use.

“Add to this the sum representing the present commercial capitalized value of the population. Such a figure exists and varies with the actual expectation of life and the plant capacity of the country, and is something like £10,000 for a citizen of the United States at the age of twenty-five. From the grand total thus obtained a figure representing the price value of the Scottish capital account could be obtained. Financial credit to any equivalent can be created by any agency such as the Scottish Treasury empowered by the Scottish people.

10 “(2) As from the initiation of this scheme, the holding of any stock, share, or bond by a holding company or trustee will not be recognized. It is the intention that no shareholding in any industrial undertaking shall be other than in the form of equity shares of no par value, i.e. preference or common shares or stock. Bonded indebtedness will be recognized for purposes of compensation where held by individuals, upon a proper investigation, but where held by corporations will be subject to such terms of redemption as may seem desirable.

20 “No transfer of real estate directly between either persons or business undertakings will be recognized. Persons or business undertakings desiring to relinquish the control of real immovable estate will do so to the Government, which will take any necessary steps to re-allot it to suitable applicants. No Government Department shall administer either directly or indirectly any business, whether agricultural, productive, or distributive, other than the administration of the financial and credit schemes, or receive payment for any services rendered to the public, other than in bulk.

“ THE INITIAL NATIONAL DIVIDEND

30 “(3) For the purpose of the initial stages an arbitrary figure, such as 1 per cent of the capital sum ascertained by the methods outlined in clause (1), shall be taken, and a notice published that every man, woman and child of Scottish birth and approved length of residence, with the exception mentioned in the paragraph that follows, is to be entitled to share equally in the dividend thus obtained, which might be expected to exceed three hundred pounds per annum per family. It will be clearly understood that no interference with existing ownerships, so-called, is involved in such a proceeding. The dividend to be paid monthly by a draft on the Scottish Government credit, through the Post Office and not through the banks.

“ Any administrative change in the organization of the Post Office should specifically exclude transfer of the money and postal order department and the savings bank. No payments of the national dividend will be made except to individuals, and such payments will not be made where the net income of the

individual for personal use, from other sources, is more than four times that receivable in respect of the national dividend. The national dividend will be tax-free in perpetuity, and will not be taken into consideration in making any returns for taxation purposes, should such be required. Except as herein specified this dividend will be inalienable.

‘ ASSISTED PRICE ’ FOR REGISTERED BUSINESSES

10 “(4) Simultaneously with the publication of the foregoing notice a figure to be published known as the discount rate, to replace the existing bank discount rate, a suitable value of this for initial purpose being 25 per cent. It is important that the figure should not be less than 25 per cent, and it might reasonably be higher.

20 “(5) Simultaneously, an announcement to be published that any or all business undertakings will be accepted for registration under an assisted price scheme. The conditions of such registration will be that their accounts, as at present required under the Companies Acts, should contain an additional item showing the average profit on turnover, and that their prices shall, as far as practicable, be maintained at a figure to include such average profit, where this is agreed as equitable for the type of business concerned (the suitable profit being, of course, largely dependent on the velocity of turnover). Undertakings unable to show a profit after five years’ operation to be struck off the register.

HOW FREE CREDITS WOULD BE ISSUED

“(6) In consideration of the foregoing, all registered businesses will be authorized to issue with sales to ultimate consumers an account on suitable paper for use as explained in the following clause.

30 “(7) Payment for goods will be made in the ordinary way, either by cheque or currency. The purchaser will lodge his receipted account for goods bought with his bank in the same way that he now pays in cheques, and the discount percentage of the amount of such account will be recredited to the consumer’s banking account. Unregistered firms will not be supplied with the necessary bill forms for treatment in this manner, with the result that their prices will be 25 per cent, at least, higher than those of registered firms. (It is obvious that the larger the discount rate can be made, the greater will be the handicap of the non-registered firms).

The total of the sums credited by the banks to private depositors in respect of these discounts will be reimbursed to them by a Scottish Treasury Credit. The capital account will be ‘ depreciated ’ by such sums, and ‘ appre-

ciated' by the capital development. The existing banks will be empowered to charge an equitable sum for the services thus rendered.

[Paragraphs 8 and 9 are omitted, as being irrelevant to the present discussion.]

“(10) Taxation of specific articles or specific forms of property to be abolished. Any taxation found to be necessary to take the form either of a flat, non-graduated taxation of net income or a percentage *ad valorem* tax upon sales, or both forms of taxation together.”

Paragraph (10) of the scheme clearly shows that abolition of taxation is one of the results of its adoption. The alternative mentioned of maintaining an income  
10 tax or a sales tax amounts obviously to the same thing, since an income tax would obviously be a reduction of the dividend and a sales tax a reduction of the discount.

Another book on the subject, “The ABC of Social Credit,” by E. S. Holter, published in New York, is also to be found in the parliamentary library. At p. 19 there is the following:

“The *real* wealth of any nation is its ability to produce and deliver goods (including services) as, when, and where required. Similarly the *real* credit of a nation is the belief in that ability, whereas the *financial* credit of a nation is quite simply the estimate of that ability expressed in monetary form, or as it is called, ‘monetized’.”

20 The word “monetized,” which will be met in the statutes, receives here its definition.

At p. 21:

30 “As individuals we are wont to think of a bank deposit as representing actual funds placed with a bank for safe keeping by a depositor. But this is far from being the case. In the main, deposits are *created* by the loans made by the banks themselves and even individual deposits, as above described, are only the re-deposits of deposits which originated in loans. ‘Every bank *loan* creates a *deposit* and every *repayment* of a bank *loan* destroys money.’ When a banker agrees to make a loan of, say \$100,000 to a producer, he writes the figures in the bank’s ledger and from the moment the transaction is completed the producer is in possession of a brand new *deposit* upon which he can draw any sum, up, of course, to \$100,000. As the borrower draws his cheques, this sum is money to him and to the community. And it is *new* money created by the bank’s action in making the loan. It is an absolute addition to the community’s stock of money, for the new deposit which has been created does not lessen the amount of any existing deposit.”

At p. 23:

“Under the present system the banks are only factories which have the right to manufacture money.

“INTANGIBLE MONEY—BANK CREDIT

10 “Aside from our state-created currency, which is negligible in amount, ‘the amount of money in existence varies only with the action of the banks.’ This means simply that the activities of the banks alone can add to or diminish the total amount of money in circulation. It is with this bank-created credit, which is exactly as effective as money tokens, though it never assumes a tangible form, being evidenced merely through the medium of checks and book-keeping, that we are concerned. This credit money performs about nine-tenths of the functions of money to-day—and the power of creating and destroying it at will, regardless of the needs of industry or the community as a whole, is the exclusive right of the financial system.”

At p. 24:

20 “Banking is a private business, and as such must be run for profit. It is expedient, therefore, for banks to loan money when such action will benefit them, likewise to recall it when the contrary action is advantageous. It must be remembered that, except possibly for a very small fraction, all money loaned by the banks is entirely *new* money—actually created by them.

“Of even greater importance is the fact that when loans are repaid to the banks, the money that they represented, less the interest charged, is destroyed—actually taken out of existence.”

At p. 72:

30 “If the principle of national money, the communal control of credit, is adopted, there is no reason that taxation should not be greatly reduced and entirely eliminated if so desired. There is an incongruity in having the Government give out money with one hand and take it back with the other. All Government expenses can be financed without borrowing, precisely as in the case of the retail discount and the national dividend. This will eliminate all need for taxes.”

It is, moreover, obvious, unless the suggested principle is sound, that the system of presenting to all the public discounts and dividends, and of eliminating taxation, would lead, very speedily, the most prosperous state into a condition of the most hopeless bankruptcy.

As previously stated, Major Douglas appeared, with others before the Agricultural Committee of the Alberta Legislature during the session of 1934. The King's Printer has published the evidence then given, by order of the Legislative Assembly of Alberta, and the book is entitled "The Douglas System of Social Credit." On the first page a description of the witnesses is given, as well as the report of the Committee. The report implies lack of jurisdiction of the Alberta Legislature and concurrence by Major Douglas in that view. A summary of the important parts of the evidence on the main points at issue is then given at pp. 4 to 10, and the printed transcript of the minutes of evidence follows.

10 The question of jurisdiction was discussed and all the witnesses except Mr. Aberhart, including Major Douglas, thought that, without jurisdiction over banks and money, the system was not feasible. Major Douglas explained again his system, emphasizing particularly (at the bottom of p. 80 and the top of p. 81) his theory that the banks have the monopoly of creating the purchasing power of the public though the public own the wealth. The synopsis gives the references to the pages where the most important points appear. Reference will be made at the argument to this Alberta Government publication.

As also stated previously, an interim report was made by Major Douglas as of date of 23rd May, 1935. This report followed upon Major Douglas' engage-  
20 ment as Chief Reconstruction Adviser to the Government of Alberta and was the result of a personal survey made by him in Alberta extending over several weeks. It is printed in the appendix. It was published by the King's Printer with correspondence which followed the report between the then Premier, Mr. R. G. Reid and Major Douglas and the Attorney-General and Major Douglas. In this report, after outlining certain general considerations relative to the theory of Social Credit and indicating his view that action towards applying it in Alberta was both possible and desirable, Major Douglas in defining the nature of his preliminary inquiry said:

30 "At the outset it must again be emphasized that a distinction should be drawn between any particular plan for the utilization of the public credit, when control of it has been acquired, and a strategy for acquiring the power to deal with the public credit. If this distinction be understood, it will be realized that plans for dealing with the public credit are wholly premature, while the power to deal with it has not been attained. For this reason I propose to confine myself in this preliminary report to possible methods and strategy in regard to the preliminary objective, that of obtaining access to the public credit." App., p. 96.

He proceeded to examine throughout some fourteen paragraphs "possible methods and strategy in regard to the preliminary objective, that of obtaining access to the public credit" and concluded by recommending the following preliminary steps,  
40 namely,—

- (1) The systematic provisions of a News circulating system under the unchallengeable control of the Province, particularly in regard to radio facilities of sufficient power to cover a wide geographical area.
- (2) The organization of some Credit Institutions, either under the Dominion Bank Act, or otherwise, which will give access to the creation of effective demand through the credit system, on principles already well recognized and established.
- (3) Systematic organization directed to the accumulation of what, for the purposes of this report, may be termed "foreign exchange," i.e., effective demand not subject to attack as being recognizable as having been created within the Province."

Major Douglas also published a book in 1937 entitled "The Alberta Experiment—An Interim Survey." At p. 94 appears the following:

"Without, for the moment, entering into details, the Cabinet and the Legislature should abandon the position of technical and legal experts and entrench themselves strongly as representatives of a Mandate to secure for the people of Alberta a dividend of twenty-five dollars per month. To this, in my opinion, should be joined, both for political and economic reasons, a demand for the drastic reduction of taxation. The general population should be mobilized to demand absolute priority for these results however obtained.

"Both of these demands are indissolubly connected with the creation of credit instruments, which, for present purposes, we may call money. So far as currency notes are concerned, it is clear that the Province of Alberta has no power to issue them. I do not think that this prohibition extends to the issue of cheques, but even this is largely immaterial. The Province has the power to make it impossible for any bank to operate within its borders, to prevent it enforcing its claims for debt, to make the business of money lending illegal and impossible, to publicize banking practice, and in many other ways to inflict severe penalties upon the financial interests. I do not suggest that the financial interests in their turn have not the power to inflict damage upon Alberta, but I do not believe that that power, if seriously challenged, is anything like so great as it is popularly supposed to be. Nor do I think that the condition of affairs in Alberta would be very much worse, except possibly for a very short time, if such very ill-advised action upon the part of the financial authorities were put to the test. The financial system is essentially a system of black magic, and one of the best protections against black magic is not to believe in it.

"In a speech in Liverpool in October, 1936, I made the suggestion that the superior officials of banking institutions should be licensed, much as is the case

with the smaller description of money-lender or pawn broker. Any refusal on their part to carry out a policy legally imposed by the Government should result in the withdrawal of a sufficient number of licences, which would only be reissued at a very largely enhanced sum, the licence fees going to a reduction of general taxation."

This extract will have particular bearing on two of the Acts under consideration, namely, "The Credit of Alberta Regulation Act Amendment Act, 1937" and the "Bank Taxation Act."

As an appendix to this book, there is found a letter of October 15, 1935, from  
 10 Major Douglas to Mr. Aberhart, then Premier of Alberta, containing the following:  
 At pp. 145 and 146:

"I should like to make it clear beyond any possible misconception that no genuine Social Credit scheme, in the accepted meaning of the word, can be financed out of taxation, and that no progress with any kind of scheme and, in fact, no sound formulation of any scheme, can be made *until the method by which access to the Public Credit, in the same sense that the banks now have access to the Public Credit, has been decided upon.*

"The first point, therefore, to enable me to proceed with the recommend-  
 ation of a specific scheme, which requires the attention of your Government,  
 20 is either:

"(a) Can you make an arrangement with any existing banking institution by which it will hand over to you, not as a loan but as a creation on your behalf and subject only to the disposition of your Government, sums of financial credit as may be required from time to time, being merely paid one sum for the bookkeeping transaction of creating such credits, and possibly a small sum additionally to cover the bookkeeping of accounts which may be based upon such credits. The essential difference between this transaction and a loan based upon present principles, is, of course, that the banks would have no right to recall, and would be paid no interest as such during the existence of the credits, but would  
 30 be merely paid for actual services performed.

"(b) If you cannot arrange that existing banks will carry out such functions on these principles you must organize a bank under the Dominion Bank Charter Act, or devise, with the aid of your local legal advisers, some method by which an institution can be organized outside the Dominion Bank Charter Act, not issuing notes, but creating and granting credits to the Government as may be required and issuing cheques along familiar lines, so that no unnecessary difficulties may arise between the boundaries of Alberta and the rest of Canada. May I repeat that action along these lines, or lines having the same objective, is quite fundamental."



Elsewhere in this factum reference has been made to the legislative provisions and the Order in Council which authorize the Social Credit Board to issue publications in connection with the Social Credit plan. There has been published, by authority of the Social Credit Board, a pamphlet which contains three addresses delivered over the radio: one by the Minister of Lands and Mines, one by the Provincial Treasurer and the third by Dr. J. L. McPherson, a member of the Legislature. At present we are concerned with the address by the Provincial Treasurer, Mr. Low, entitled "Your Credit and Mine." The headline to this speech is "Your Credit and Mine"—"Every Dollar in Circulation is Created by the Banks"—"The People Pay Interest to the Banks on Every Dollar in Circulation"—"Text of an address delivered over Station CJCA, Edmonton, on Thursday, September 23rd, 1937, by the Hon. Solon E. Low, Provincial Treasurer of the Province of Alberta." The session at which the three Acts submitted were passed opened the next day and lasted less than two weeks. The opening words are:

" If Canada's chartered banks, as they claim, have paid in taxes in Canada during the past ten years the sum of \$74,301,000, it has cost them nothing. It has cost that much to the people of Canada, marked up in a huge debt that they owe the banks and financial institutions."

Other passages in this speech to which it is desired to refer read as follows:

20 " In the first place, it is a well known fact that practically every dollar in circulation, whether it be cash or cheque book money, is created by the banks. Even they cannot deny this. Secondly, every dollar comes into circulation by being borrowed from the banks, which means that the people are paying interest through the banks on every dollar in circulation."

\* \* \* \* \*

30 " In the third place, banks can and do change the volume of money purchasing power in circulation without regard for the welfare of the people who really give value to it. The amount of coin and notes in circulation in Canada at December, 1936, was \$238,000,000. The amount of bank deposits at the same date was \$2,230,148,927. The difference between these two sums, \$1,992,148,927, is the bankers' own creation. It represents the monetization of real Social Credit and its real base is the goods it will buy and the services it will secure."

\* \* \* \* \*

" Let me here illustrate how a bank creates credit purchasing power and how a loan becomes a deposit. John Smith, who owns a hundred cattle worth at the market price \$3,000, goes to the bank to borrow \$1,000. The bank agrees to the loan provided John Smith agrees to hypothecate to them, by way of security, his one hundred cattle.

“The necessary documents are drawn up and John Smith is given a book account of \$1,000 which he can and does pay out by cheque. He does not receive coin or other currency as a rule, but even if he does, he deposits it in another bank immediately or passes it on to someone else who deposits it immediately, either in the same bank or another in the country. In any case, the loan of \$1,000 becomes a deposit in the bank to be paid out by cheque to others who in turn deposit in banks. In making this loan the banks did not advance to John Smith other peoples’ money. What they really did was to monetize John Smith’s cattle—his real credit, and then they loaned him his own cattle and charged him interest on them. In this case John Smith’s cattle were not fully monetized, hence he was not able to enjoy to the full his own property right.

“In other cases of loans on such security the result is the same—the real wealth is only partly monetized. ‘Hardly anyone realizes that a loan just completed is putting into circulation that much new money. Nor does the banker or borrower ordinarily realize that they are starting an endless chain of successive transactions that continues as long as this credit substitute for money remains in circulation.’

“When the bank asks John Smith to return his loan, so much purchasing power goes out of existence and a train of successive transactions which would otherwise have been made with that deposit ceases.”

\* \* \* \* \*

“The ratio of gold reserves held by the Bank of Canada to the paid-up capital of the same institution is evidence of the power of banks to create purchasing power. This bank began its operation only a few months ago with a capital of ten millions of dollars, yet to-day it holds one hundred and eighty millions, approximately. It purchased this gold from the other banks with its own paper, *which means that it acquired the gold for nothing by writing a draft upon itself for the sum involved* and the general public honours the draft by being willing to provide goods and services in exchange for it.

#### CREATED BY BANKS

“Let us at this point review the facts that have been established.

“1. Practically every dollar of purchasing power is created by the banks. If anyone else presumes to make money he forthwith finds himself in gaol. Hence the banks exercise an absolute monopoly.

“2. Every dollar comes into circulation by being borrowed from a bank. Therefore every dollar represents a debt created at its issue upon which interest must be paid.

“3. The banks can, and do, vary the amount of money in circulation almost at will by making loans and creating by them deposits, or by buying and selling

securities. And they do these things not for the benefit of the people whom they make a pretence of serving, but for their own selfish benefit.

10 "4. The commercial banks monetize the wealth of the people by granting loans in *the form of book entry deposits* backed solely by the wealth given as security. This purchasing power amounts to many millions and *costs the bank nothing* but the ink and paper necessary to write the figures down. Hence, *if a bank is required to pay taxes, it can do so by issuing a cheque upon itself which does not represent its own cash nor that of its depositors.* That cheque may represent the hitherto unmonetized wealth of the people of the country in which the bank operates, and therefore costs the bank nothing but the keeping of the accounts. Having established these facts, we now turn to the letter itself.

"It opens with a statement of a demand which the people of Alberta have made upon their government to get them a dividend of \$25 per month along with a reduction in taxes."

\* \* \* \* \*

20 "The B.N.A. Act gives to the province sovereignty over the civil and property rights of the people, yet Albertans cannot enjoy these rights fully. Nor can the province exercise sovereignty over them for the purpose of preserving them for the people because a financial hegemony dictates to the Dominion Government and forces disallowance of our Acts passed for the purpose of ordering the results of things done in banks for the good of the people.

"Now the banks are well equipped to carry out the people's will in respect to the policy of credit within our borders. Without the people they would not be of any use in the province. Without the people's wealth and power of production the banks could not carry on. Therefore they should exist within our boundaries for the good of Albertans and consequently should be subject to policy control by the people whose wealth they monetize. *Part of the responsibility for arranging reform must, therefore, devolve upon these institutions.*"

\* \* \* \* \*

30 "The essence of the whole plan of your government is 'to make money independent of loans; that is, *to divorce money from banking.* A purely incidental result would be to make banking safer and more profitable; but by far the most important result would be the prevention of great booms and depressions by ending the chronic inflations and deflations which have ever been the great economic curse of mankind.'"

To repeat what has already been stated, the scheme of legislation appears clearly from these quotations as being banking legislation and this will still further appear on a careful analysis of the provisions of the statute under consideration.

**14. Analysis of Main Social Credit Legislation.**—The Main Social Credit measure is The Alberta Social Credit Act, chap. 10, 1937 (First Session): Case p. 85, ls. 20-23, to p. 103.

The preamble affirms the capacity of the inhabitants of Alberta of producing an abundance of wealth, both capital and consumptive. It states that, nevertheless, these people are heavily in debt and unable to acquire a standard of living such as they consider both desirable and possible. It further states that the existing means or system of distribution of wealth is considered to be inadequate, unjust and unsuited to the welfare and happiness of the people: Case p. 85, ls. 26-33, p. 86,  
10 ls. 1-13.

After a series of definitions (Case p. 86, ls. 8-35, p. 87), the Act provides (Case p. 88) for the creation of a Board, the first members of which are named and who, it is understood, were all members of the Legislative Assembly; their successors are to be appointed from time to time by the Legislative Assembly. This Board "shall be deemed to be a committee appointed by the Legislative Assembly": Case p. 99, l. 28. The powers and duties of this Board are mentioned, but a detailed analysis thereof is not essential to this argument.

By sec. 4 (Case p. 89, ls. 6-23) provision is made for a Commission which shall be a body corporate. The duties of the Commission are by sec. 5 mentioned: Case  
20 p. 89, ls. 25-34, to p. 90, ls. 1-11. This section provides: There is to be a Provincial Credit Account; the Commission is to determine the value, for the year, of the unused capacity of industries and people of Alberta for the production of wanted goods and services; this amount is credited to the Provincial Credit Account; the balance unused in that account at the end of the year is written off: sec. 5 (1).

This Commission shall also determine the retail discount rate, of which more hereafter: sec. 5 (2).

The Commission can provide advances of Alberta Credit to certain persons for certain purposes: sec. 5 (3). Alberta Credit is defined in sec. 2 (Case p. 86, l. 9) as being "The unused capacity of the industries and people of the Province of  
30 Alberta to produce wanted goods and services."

The succeeding subsections of sec. 5 are of secondary importance, except ss. 8 (Case p. 91, ls. 5-8) which provides that: "The Commission shall have authority, with the approval of the Board, to take any necessary steps which may be required to establish and maintain a reserve of financial credit sufficient to assure that Treasury Credit Certificates shall always be honoured in terms of currency in the extra-Provincial market."

Sec. 7 provides for the issue of Treasury Credit certificates to the extent required "for the purpose of increasing the purchasing power of the consumers of Alberta as to make such purchasing power conform to the productive capacity of  
40 the people of the Province for the production and delivery of wanted goods and

services, which capacity is declared to be the measure of Alberta Credit": Case p. 91, ls. 25-30.

Sec. 8 states that the intent and purpose of the Act is "to provide that all extra provincial trade debits be paid in Canadian currency where it is desired by the other parties": (Case p. 91, ls. 31-33. This section must be read with ss. 8 of sec. 5, mentioned above.

Secs. 9, 10, 11 and 12 (Case p. 92) are authorities to Government, public corporations and persons to accept Alberta Credit, or transfers of Alberta Credit, as valid payments. It is further provided by sec. 10 that the Lieutenant-Governor in  
 10 Council may, on advice of the Board, provide that all claims against the Province for payment of any money out of any appropriation of public money made by the Legislative Assembly for the purpose of providing for any grants or allowance, or any claim or any class or description of claim payable within the Province specified by the order, shall be satisfied by the transfer to the payee of Alberta Credit; provided that in the case of contractual obligations all parties agree to the above terms: Case p. 92, ls. 4-17. The endeavour is obviously to make transfers of Alberta Credit a method of payment as far as possible. As shown by sec. 8, the expectation is that extra-provincial trade debits will have to be paid largely in Canadian currency; intra-provincial transactions shall be settled by transfers of Alberta Credit.  
 20 It is not made legal tender because, obviously, the Legislature realized it was clearly beyond its powers.

Sec. 13 (Case pp. 92-93) enumerates the purposes for which Treasury Credit Certificates are available.

Sec. 14 provides for the fixing by the Commission of the retail discount rate, to be changed from time to time: Case p. 95, ls. 7-38. This retail discount rate is to be the percentage which unused productive capacity bears to total productive capacity. Ss. 2, 3, 4 and 5 contain rules for the determining of this retail discount rate.

Sec. 15 provides that this "discount rate shall be applicable to purchases of  
 30 goods and services from retailers . . . made by consumers who are natural persons: Provided that such purchases are made for the personal use of the consumers or their respective families, and are not made for resale, trade or manufacture": Case p. 94, ls. 1-15. "Retailer" is defined by sec. 2 (Case p. 87, ls. 9-19) as any person who sells by retail goods, wares or merchandise to ultimate consumers for consumption or use by the purchaser and member of his family or household; or provides any service to any person for the benefit or enjoyment of that person and the members of his family or household; or who sells any dwelling house, whether with or without the land forming the site thereof, to one who does not purchase for resale. "Services" are defined (Case p. 87, ls. 23-27) as "passenger  
 40 transportation, distribution to homes of gas and electricity for light, heat, power

and telephone transmission, rentals of homes, services of amusement and other such services to ultimate consumers, as are rendered under the regulations of their respective trade and professional associations." The retail discount covers, therefore, a very broad field, being applied to buildings, goods and services, as defined, when the beneficiary is the ultimate consumer.

Under ss. 2 and 3 of sec. 15, the retailer who grants a discount is compensated by a discount voucher: Case p. 94, ls. 7-15.

Sec. 16 provides (Case p. 94, ls. 16-31) that agreements may be made with the Commission:

10 1. By retailers, in order to qualify them to dispense the retail discount and to reap the benefits thereof; in other words, without such agreement they either cannot grant the discount or, if they grant it, they are not compensated by discount voucher.

2. As to wholesalers, manufacturers and primary producers, the agreement is needed to qualify them to dispense their goods and services to the retailers, and the agreement to the retailer must provide that he shall not deal, if so required by the Commission, with wholesalers, manufacturers, primary producers and purveyors of services who have not entered into the above agreement.

The Attorney-General of Canada suggests that this agreement would undoubtedly contain a proviso compelling all these retailers, wholesalers, manufacturers and  
20 purveyors of services to help along the Social Credit scheme by accepting Alberta Credit in payment, thus going far to make it, indirectly, legal tender in the Province.

Sec. 17 provides that the Credit House and its branches in the Province shall accept discount vouchers from a retailer and credit his account with the amount thereof if deposited by him. All these vouchers so credited are to be charged by the House, or its branches, to the Treasury Credit Certificate Account, namely, to the Government, and Treasury Credit Certificates will be issued to reimburse the branches: Case, p. 95, ls. 7-28.

Sec. 18 provides there shall be a Provincial consumers' dividend paid every month to every person entitled to Alberta Credit: Case, p. 95, ls. 30-33. Sec. 2,  
30 para. (j) defines the persons entitled to Alberta Credit and these include, substantially, subject to certain minor exceptions, almost every person of twenty-one years of age who is resident and domiciled in the Province and who is a British subject: Case p. 86, ls. 25-35, p. 87, ls. 1-15. The payment of these dividends is provided by Treasury Certificates to each branch for the amount that branch has to disburse and the branch issues credit vouchers to the recipients of the dividend in payment thereof: Case p. 95, ls. 33-36, p. 96, ls. 1-4.

Under ss. 4 of sec. 18, the Board may establish classifications of persons entitled to Provincial Consumers' dividend, having regard to any circumstances relating to purchasing power and production or economic conditions: Case p. 96, ls. 16-18.

In secs. 19 to 26 the Credit House and the Treasury of Alberta are dealt with: Case p. 96, ls. 28-33 to p. 98, ls. 1-8. It is submitted that the effect of this part is to provide that there will be a department of Provincial Administration, to be known as the Alberta Credit House and which is to be a corporation. This Credit House shall have branches and, as will be seen later (sec. 30), a clearing house. It will be the agency of the Provincial Treasurer in circulating credits to effectuate the purposes of the Act (sec. 21). Under secs. 25 and 26 it is to open deposit accounts of currency, securities, credit vouchers, transfers of Alberta Credit and, as mentioned earlier, discount vouchers. It can convert currency and negotiable instruments, on  
 10 demand, into Alberta Credit. As seen, it is to issue the credit vouchers in payment of the dividend. It is not clear under the Act if it is to issue the discount vouchers, but presumably it would be entrusted by the Board, or the Commission, with this duty because these discount vouchers are to be deposited there. This Alberta Credit on deposit with the branch for a customer may be drawn against by means of an instrument in the form prescribed by the Commission, which must be presented for delivery to the branch (secs. 23 and 24; Case p. 9, ls. 12-17).

An analysis of this method of operation at this point would, it is suggested, be helpful. The customer has, in a given branch, a deposit account consisting of his dividends,—if a retailer, having signed the agreement his discount vouchers—and  
 20 any other deposits of Alberta Credit or of currency that he may have made. He is entitled to make transfers out of the amounts deposited. People are authorized and encouraged and, to a certain extent, coerced, as indicated by the agreements that must be signed, to accept these transfers as payment or, in other words, as money. The transfer instrument must be, no matter how worded, an order on the transferor's branch to transfer to the credit of the payee the amount mentioned. This document must be delivered first to the payee. The payee will deposit in his own branch, which may not be the same one, and his deposit account will be credited by that amount. The branch, through the clearing house, will return this transfer instrument, as it is called, to the first branch which will, on delivery, debit  
 30 the transferor's account. It is, therefore, exactly the banking operation of drawing cheques, and it cannot be anything else. It is suggested that, inasmuch as this method is intended by the Legislature and those charged with the administration of the Act to be as popular as possible, all simplifications and conveniences that have been adopted by banks, thanks to long practice, will have to be adopted by the Credit House and its branches; otherwise, this method will not be popular. It follows that the identity with cheques will be made complete by the fact that it will be necessary to introduce the practice of certification. It is obvious that, in all circumstances where a person insists on a cheque being certified before accepting it, the payee in Alberta will insist on this transfer of Alberta Credit being similarly  
 40 certified. This can be done, under this Act, easily under the power to determine the nature of instruments (sec. 23), under the power later given to make regulations

(sec. 46) and under the power of the Lieutenant-Governor in Council to amend and add to this Statute (sec. 42).

It is submitted there is here a clear case of banking in the operations of the Credit House and its branches; of incorporation of banks in the creation of the Credit House with its branches; and, perhaps not as clearly, but, nevertheless effectively, the issue of paper money because the Credit vouchers may, as issued by the branch in payment of the dividend—there is nothing in the Act preventing it—be used in circulation. The sections just quoted give ample power to provide that they be available for circulation. And again, if it is the desire that this form of  
 10 money should replace, as much as possible within the Province, Canadian currency, (as everybody needs some paper money with him and does not leave every dollar he has on deposit), this will have to be made a circulating medium, otherwise Canadian currency will have to be resorted to for that purpose. It must not be forgotten that the Government, under this Act, will have to adopt every means to get in its own control as much Canadian currency as possible in order to meet extra-provincial payments or with a view to securing the honouring of Treasury credit certificates in the extra-provincial market. There is, therefore, extreme likelihood under this Act of these credit vouchers being made into ordinary paper currency and used as regular bank notes, and the Act permits it.

20 Part IV (secs. 27-32) deals with Treasury Credit Certificates, which need not be dealt with in detail. They are the method adopted by the Government to finance the Credit House and its branches. Secs. 30 and 31 provide for the clearing house, to which reference has already been made: Case, p. 99, ls. 6-29. Sec. 32 provides for payments in currency when they have to be made. These sections are those which, as pointed out previously, compel the Government to take in as much currency as they can.

Part V (secs. 33-35) entrusts the Commission with the duty of preventing undue expansion of credit as well as eliminating contraction of credit. This is a State Bank function,—in this country, a Bank of Canada function.

30 The existing methods of controlling credits, through open market operations and the discount rate, are to be adopted to maintain a balanced credit structure (sec. 33; Case, p. 100, ls. 14-22). To help that, and to provide, when necessary, for the retirement of Treasury Credit Certificates, one-quarter of the Provincial surplus is to be set aside every year, and this fund is to be used to retire Treasury Credit Certificates when there is an unduly expanded credit condition existing or impending (sec. 35; Case, p. 101, ls. 1-19). If the fund thus raised is insufficient, the Commission may establish a negative retail discount, which appears to be an amount to be added by the retailer to the retail price to consumers and is paid by the retailer to his branch from which it goes to the Government to supplement  
 40 this fund. It is suggested that this is an indirect tax.

The last part of the Act, Part VI (secs. 36-51) need not be discussed in detail, except that reference may again be made to sec. 42 (Case, p. 102, ls. 30-35),



empowering the Lieutenant-Governor to alter or supplement the Act, and also to sec. 46 (Case, p. 103, ls. 20-23) which gives the Commission, with the approval of the Board, power to make regulations. Sec. 47 appropriates the necessary moneys and credits for carrying out the provisions of the Act. Sec. 50 provides that no provision of the Act shall be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

The Alberta Social Credit Act Amendment Act, 1937, contains (Case, p. 117, ls. 8-10) a somewhat obscure definition of the words "social credit." It is said to be, "The power resulting from the belief inherent within society that its indi-  
**10** vidual members in association can gain the objectives they desire." It is submitted that it is not essential to the decision of this reference that the precise meaning of that definition need be determined.

The same Amendment Act (Case, p. 117, ls. 17-25) states that the function of the Board, which is empowered accordingly, shall be, with the approval of the Lieutenant-Governor in Council, to do such acts and things as it may, from time to time deem proper for the purpose of promoting, conserving and enhancing the social credit of the Province. The powers thus given to the Board, with the approval of the Lieutenant-Governor in Council, coupled with the power given to the Lieutenant-Governor in Council by sec. 42, mentioned above, to amend the  
**20** Act, are practically unlimited in respect of furthering this banking plan.

To summarize: a corporation, with branches and a clearing house, is created which receives deposits; against these deposits cheques are issued, which are called "credit transfer instruments"; and dividends are given to the public which are paid by the issue of what is, in effect, paper money; and reduction in price is given to the public by means of discounts, determined by a Government agency, allowed by retailers who are compensated by the issue of discount vouchers, which are similar to credit vouchers.

The Alberta Credit has not been made legal tender, as the impossibility of doing that was too obvious. Every person, and every corporation with limited  
**30** powers such as municipalities and the Government, are authorized to accept it in payment. Primary producers, wholesalers, manufacturers and retailers are coerced to accept it in payment by the agreements mentioned above. Another coercion may be found in ss. 4 of sec. 18 (Case, p. 96). The classifications of persons "entitled to Provincial Consumers' dividend, having regard to any circumstances relating to purchasing power and production or economic conditions" may largely be influenced by the attitude of those persons towards the Alberta Social Credit experiment. There is a further coercion, and this brings in a discussion of certain complementary statutes.

The Licensing of Trades and Businesses Act, 1937, chap. 1 of the Third Session, 1937 (Case p. 123) applies to "all trades, businesses, industries, employments and occupations (hereinafter called 'businesses') which are carried on in the Province," subject to certain exceptions (sec. 3, Case p. 123). The Minister of Trade and Industry (sec. 2 and sec. 4) may: (para. (c), Case p. 124, ls. 11-14) "provide for the licensing of all persons engaged or employed in any business or any description or class thereof so designated and prohibit the carrying on of that business or the engagement in that business by any person who is required to be licensed and who is not so licensed"; ( (e), Case p. 124, ls. 24-25) "prescribe as to the duration of any  
 10 licence, the form and mode of issuing any licence and the renewal thereof." Sec. 5 (Case p. 125, ls. 1-11) provides a penalty for carrying on business without a licence when a licence is required. The licence may be revoked by the Minister if he is satisfied that on more than one occasion the provisions of the Act, and of certain other Acts, are violated (sec. 7, Case p. 125). Sec. 8 (Case p. 125, ls. 28-36, p. 126, ls. 1-3) provides that the Minister may refuse application for the issuance or renewal of a licence in respect of any business in any locality if he is satisfied that such refusal is in the public interest, or he may refer the application to another Board (which would include the Social Credit Board) for investigation and report and, on the report, refuse to grant the application if he is satisfied by the report or otherwise  
 20 that such a refusal is in the public interest. It is obvious that the most complete control is thus given to the Minister of a very large variety of occupations in the Province, and it seems a fair inference, in view of the importance attached by the Alberta Provincial Legislature to its social credit scheme, that it will be considered in the public interest to refuse a licence to whomever will not help along the scheme by accepting Alberta Credit as money.

The Department of Trade and Industry Act Amendment Act, 1936, which appears in the Case at pp. 34-35, and amendments thereto at pp. 68-69, need only be referred to to state that it gives the Government very comprehensive price-fixing power. The Department of Trade and Industry Act Amendment Act, 1936, chap. 66,  
 30 1936 (First Session) (Case, pp. 34, 35) amends the original Department of Trade and Industry Act, chap. 33 of the Statutes of Alberta, 1934, and this original statute was further amended by The Department of Trade and Industry Act Amendment Act, 1936 (No. 2) chap. 9, 1936 (Second Session): Case, pp. 68, 69. From these amending Acts it appears that provision has been made through the agency of a governmental Board styled "The Price Spreads Board" for making inquiry pertaining to, and fixing by order,

- (a) maximum or minimum prices, or both, at which such goods, wares or merchandise shall be purchased or sold, whether by wholesale or by retail; or

- (b) maximum or minimum prices, or both, to be charged for services rendered or work done in any of the trades to which this Act applies or shall hereafter apply;
- (c) areas of the Province to which any such order shall apply, and in so doing may fix different maximum and minimum prices for different areas: Case p. 69, ls. 6-13.

It is thus manifest that the main Social Credit legislation of Alberta, as reviewed above, embodies a scheme or project and presents aspects and purposes which flagrantly transcend provincial legislative authority and involve distinct encroachments upon the exclusive legislative authority of the Dominion Parliament in relation to "Banking, incorporation of banks, and the issue of paper money," and, it would seem also, "legal tender" and "The regulation of trade and commerce."

The transactions and operations in which the legislation contemplates the credit house and its branches will engage would appear to be essentially banking transactions and operations, and, therefore, from that point of view, the legislation is a clear infringement of the exclusive legislative authority of the Dominion Parliament in relation to "Banking, incorporation of banks, and the issue of paper money" and is in conflict with the provisions of The Bank Act, cap. 25 of the Statutes of Canada, 1934. The issue by the Alberta Credit House of treasury credit certificates with a view to their being honoured in terms of currency in the extra-provincial market, the issue and circulation of discount and credit vouchers, and the issue and drawing of credit transfer instruments against deposits of Alberta credit, would all appear to be in plain violation of The Bank Act, and more particularly of sec. 138 thereof.

It is to be borne in mind, in the consideration of this provision, that such instruments do not have to be issued or made with the intent that they should circulate as actual money in order to come within the purview of said sec. 138; it is sufficient if they are "intended to circulate as money or to be used as a substitute for money." That section reads as follows:

" 138. (1) Every person, except a bank to which this Act applies, who issues or re-issues, makes, draws or endorses any bill, bond, note, cheque or other instrument, intended to circulate as money, or to be used as a substitute for money, for any amount whatsoever, shall incur a penalty of four hundred dollars.

(2) If any such instrument is made for the payment of a less sum than twenty dollars, and is payable in form or in fact to the bearer thereof, or at sight,

Unauthor-  
ized issue  
of notes  
for cir-  
culation.

Intention  
presumed.

or on demand, or at less than thirty days thereafter, or is overdue, or is in any way calculated or designed for circulation, or as a substitute for money, the intention to pass the same as money shall be presumed unless such instrument is

**Exceptions.**

- (a) a cheque on some chartered bank paid by the maker directly to his immediate creditor; or
- (b) a promissory note, bill of exchange, bond or other undertaking for the payment of money made or delivered by the maker thereof to his immediate creditor; and
- (c) not designed to circulate as money or as a substitute for money.”

In *Moss v. Hancock* (1899) 2 Q.B. 111, 116, Darling, J. defined money as follows:

“Money as currency . . . . seems to me to have been well defined by Mr. Walker in ‘Money, Trade, and Industry’ as ‘that which passes freely from hand to hand throughout the community in final discharge of debts and full payment for commodities, being accepted equally without reference to the character or credit of the person who offers it and without the intention of the person who receives it to consume it or apply it to any other use than in turn to tender it to others in discharge of debts or payment for commodities.’”

It is further submitted that the scheme envisaged by this legislation essentially involves in its operation the employment of coercive measures to secure the acceptance by all creditors in the Province of Alberta of Alberta Credit in payment of their claims in lieu of currency, which is current and legal tender in Canada as provided by sec. 15 (3) of The Currency Act, R.S.C., 1927, chapter 40. From this point of view the legislation infringes the exclusive legislative authority of the Dominion Parliament in relation to “Legal tender.”

It is also submitted that this legislation is legislation in relation to “The regulation of trade and commerce” and is for that reason, apart from any others, incompetent to the Provincial Legislature. The pith and substance of the legislation is to create and regulate credit not as affecting any particular trade or business, but as affecting all trades and businesses—in other words, trade and commerce, as such, generally. A more detailed development of this aspect of the legislation, with particular reference to Bill 8, as well as a brief survey of the pertinent decisions relating to the scope of the Dominion Parliament’s legislative jurisdiction in relation to “The regulation of trade and commerce” will be found in para. 18 of this Factum.

**15. Bill 8, "An Act to Amend and Consolidate the Credit of Alberta Regulation Act," an Unlawful Project.**—It will be convenient to examine first of all the provisions of Bill 8, this Bill being the one which is most directly related to the attainment of the "preliminary objective, that of obtaining access to the public credit." The provisions of this Bill have been outlined in paragraph 5 above. It is, as has already been pointed out, substantially a re-enactment of the disallowed Act which it professes "to amend and consolidate," namely, The Credit of Alberta Regulation Act (Case, p. 85, ls. 20 to 33; pp. 86 to 103).

The Bill provides, in effect, for a licensing Act; but obviously the licence is not  
 10 the kind of licence which is often employed as a means of collecting a tax. It must be withheld if a certain prescribed undertaking is not signed (sec. 3 (3) ); or, again, if the credit institution does not join with the Social Credit Board in appointing a local directorate, the majority of whose members are named by the Board, and whose duty it is to supervise and control the policy of the institution from the point of view of performance of the undertaking (sec. 3 (4) ). The licence may also be withheld apparently for other reasons (sec. 8 (e) and (f) ). Operating without a licence involves fantastic penalties (sec. 3 (7) and sec. 5). What is intended as the principal object of the licence is obviously to secure the giving of the undertaking above mentioned and the living up to it. The main purpose is to prevent absolutely  
 20 the credit institution from "acting or assisting or encouraging any person or persons to act in a manner which restricts or interferes with the property and civil rights of any person or persons within the Province" (sec. 3 (3) ). The question what is meant by those words, and the question of fact whether the undertaking is lived up to, are to be decided finally by the Provincial Credit Commission, with a right of appeal in some instances to the Social Credit Board, and the Board's decision is made enforceable by fantastic penalties. The words "restricts and interferes with the property and civil rights of any person or persons within the province" obviously mean, principally, acting, assisting, or encouraging others to act so as directly or indirectly to restrict or interfere with the privileges granted by the Alberta Social  
 30 Credit legislation. The two final authorities in the matter are the Provincial Credit Commission and the Social Credit Board. Ordinarily, interference with property and civil rights are taken care of by the courts; but this Bill was not passed to prevent a bank trespassing, causing damage to the person or property, stealing, etc. It is to be noted also that the jurisdiction of the Courts is very much restricted. Under sec. 5 all that the Courts can do is to penalize at the rate of \$10,000 per day of unlicensed operation; they have only one fact to investigate: is there or is there not a licence? The Court can never be called upon to decide if an institution has been acting, assisting or encouraging others so as to restrict or interfere with property and civil rights.

Another noticeable point is that the Bill apparently applies only to existing credit institutions (sec. 3 (1) ). It is not a general law applying to future ones; it is obviously meant to coerce certain existing institutions.

The next and really important question is, to whom are the provisions of this Bill intended to apply? A comparison of sec. 2, paragraphs (a) and (b) with section 3 shows clearly that the determination of this question turns entirely on what is meant in sec. 2 (b) of the Bill by the words "whereby credit is created, issued, lent, provided or dealt in by means of book-keeping entries, in any case and at any time when the aggregate amount of all credit so created, issued, lent, provided or dealt in is in  
10 excess of the total amount of legal tender in the possession of the credit institution so creating, issuing, lending, providing or dealing in such credit."

It is significant that the word "credit" is not defined in this Bill; but it is none the less a Bill to regulate "the credit of Alberta." "Alberta Credit" as defined by sec. 2 (a) of the main Social Credit measure, The Alberta Social Credit Act (Case, p. 86, ls. 9 and 10), means "the unused capacity of the industries and people of the Province of Alberta to produce wanted goods and services." As there are no institutions which create or deal in "Alberta Credit" as thus defined, it is certainly not that kind of "credit" to which the Bill refers. "Social Credit," on the other hand, is defined by sec. 2 (nl) of the Alberta Social Credit Act as amended by the Alberta  
20 Social Credit Act Amendment Act, 1937, chapter 3 (Second Session) as "The power resulting from the belief inherent within society that its individual members in association can gain the objectives they desire": Case, p. 117, ls. 8 to 10. This definition may furnish a clue to the meaning of "credit" as used in the Bill if the "objectives" to which it refers may be taken to be any objective within range of the powers of self-government conferred by secs. 91 and 92 of the British North America Act.

What then is the "credit" referred to in and dealt with by this Bill? First, it is credit created or dealt in by means of book-keeping entries, but it can scarcely be contended that this means that, whenever a book-keeping entry is made in  
30 connection with the creation of credit, the provisions of the Bill are intended to apply. If that were its meaning, its scope would be very broad. Practically every person in business makes a book-keeping entry when he grants a credit. The person who sells, unless it be for cash, grants a credit. It cannot easily be assumed that every merchant who sells on credit and every lender, from lenders on real estate to pawn-brokers, were to be subjected to the provisions of this drastic Bill. The improbability that the Bill was intended to have any application to trades, businesses, industries, employments and occupations, other than banking, or to producers, manufacturers and wholesale and retail dealers, is, apart from other reasons, enforced by two considerations (1) the absurdity of applying to all those businesses the provisions

respecting local directorates and (2) that independent provisions for licensing them and regulating their trade practices had been made under the Department of Trade and Industry Act, Chapter 33 of the Statutes of Alberta, 1934, as amended by the Department of Trade and Industry Act Amendment Act, 1937: Case, p. 34; p. 35, ls. 1 to 18; and of the Licensing of Trades and Businesses Act, 1937: Case, pp. 123 to 126.

The narrower and preferable view is that the definition of "business of dealing in credit" applies to a business method which is practically, if not absolutely, limited to banks. Merchants who sell on credit must obviously be eliminated, and  
 10 loans need solely to be considered. The meaning of the unusual words in the definition "creating credit by means of book-keeping entries" is made clear by the quotations from Major Douglas' book and other sources set out in para. 13 of this Factum above where the words are used and whence obviously they were taken. In that literature they apply mainly, if not exclusively, to banks.

The average lender pays out his money immediately to the borrower and the latter uses it immediately or brings it to the bank. In the case of banks, this, of course, often happens, but it also frequently happens that on an application for credit being made to the bank, the latter decides to grant it and, accordingly, notifies the applicant whose need of money is not immediate. Entries are made  
 20 in the account of the applicant placing the amount to his credit. The bank, having granted the credit, becomes his debtor. He draws against his account and as he does so he ceases to be a creditor under the agreement granting him credit and becomes, from that moment only, a debtor as a borrower.

This must be the class of transaction, and the only class of transaction intended to be referred to in or which can be covered by sec. 2 (b) of the Bill. If that be the case, the Bill applies only to banks because it is only in banks that the money, when the right to borrow it has been obtained, is left temporarily with the lender; when money is borrowed elsewhere, it is taken from the lender and used or deposited with the bank. It is difficult to conceive to what institutions but a bank the Bill  
 30 can apply, worded as it is, particularly as its application is apparently limited to existing institutions. At all events, if it does not apply exclusively, it applies principally and almost exclusively, to banks.

That this is the probable intention of the Bill becomes still more evident when consideration is given to the ordinary and natural meaning of the term "credit," as applied to a banking transaction. In this sense, "credit" is defined by the New English (Oxford) Dictionary as meaning:

"A sum placed at a person's disposal in the books of a bank, etc., upon which he may draw to the extent of the amount; any note, bill or other document on security of which a person may obtain funds."

“Credit,” in this sense, is what economists designate banking or financial credit—the type of credit which, it is the complaint of the Social Credit theory, banks have the exclusive privilege of monetizing, and this, so the proponents of that theory say, by what is, in essence, merely a book-keeping process: See the quotations from Major Douglas’ book and other sources set out in para. 13 of this Factum above and Appendix, p. 95.

Moreover, this Bill professes, as has been stated, “to amend and consolidate” the disallowed statute, “The Credit of Alberta Regulation Act” (Case, pp. 111 to 114; p. 115, ls. 1 to 19), and if its provisions be interpreted in light of the  
 10 disallowed statutes, the conclusion is inescapable that the Bill was intended to apply to banks exclusively. It was, of course, the design of the disallowed statute, which this Bill was avowedly intended to replace, to provide for the control of banking or financial credit by controlling the chartered banks within Alberta and their loaning and other policies.

Other considerations confirm the foregoing view.

The preamble speaks of “the principles governing the monetization of credit and the means whereby such credit is made available to the Province and the people.”

In the definition of “business of dealing in credit,” The Bank of Canada is  
 20 expressly excepted.

The exception based on the amount of legal tender possessed can have a meaning only as to banks. Others have insignificant amounts of legal tender in their possession. They leave the bulk of it on deposit in the banks. Further, under the terms of the definition in sec. 2 (b) of the Bill, when a credit institution is “dealing in credit” such dealing includes transactions of the following familiar kinds,—

- (a) payment of cheques or other negotiable instruments made, drawn, or paid in by customers;
- (b) the making of advances; and
- 30 (c) the granting of overdrafts.

All of these are, of course, simply ordinary banking transactions, and fall within the scope of banking business. If any institution, other than a bank, were to engage in such transactions, it would almost certainly be guilty of offending against the provisions of The Bank Act, Chapter 24 of the Statutes of Canada, 1934. It must also be borne in mind, in the consideration of the provisions of this Bill, that bills of exchange and cheques are instruments of a special character whose negotiability and other characteristics are largely governed by the provisions of the Bills of Exchange Act, R.S.C. 1927, chapter 16: see as to cheques,



secs. 165 to 175. For instance, a cheque within the meaning of the statute must be drawn on a "bank," that is, an incorporated bank or savings bank carrying on business in Canada: see secs. 165 and 2 (c).

The powers specifically conferred upon banks chartered under The Bank Act include as a primary function the receiving of deposits and the honouring of cheques: see secs. 92 and 95, and Falconbridge on Banking and Bills of Exchange (1935) 5th ed., pp. 156 and 295; *re Home Bank of Canada*, 59 O.L.R. 654, 658. They also include power to engage in and carry on the business of dealing in gold and silver coin and bullion: sec. 75 (1) (b), as well as to deal in, discount and loan  
 10 money and make advances upon the security of, and to take as collateral security for any loan made by it, bills of exchange, promissory notes and other negotiable securities, etc.: sec. 75 (1) (c). But, in addition to these specified powers, banks are authorized to "engage in and carry on such business generally as appertains to the business of banking": sec. 75 (1) (d); and the powers conferred by this provision are not restricted to the powers specified under the Act but include those which are necessarily implied as incidental to the business of banking: *Jones v. Imperial Bank* (1876) 23 Grant's Chan. 262, 271.

"The nature of the business of bankers is part of the law merchant and is to be judicially noticed by the Court": *Bank of Australasia v. Breillet* (1847) 6 Moor.  
 20 P.C. 787; and that being so, "The limits of a banker's business cannot be laid down as a matter of law": *Banbury v. Bank of Montreal* (1918) A.C. 626, 652, 653, per Lord Finlay. The powers conferred upon banks by The Bank Act are similar to those which were conferred upon them by ante-union legislation.

Prior to and at the time of Confederation, the Province of Canada was the only one of the British North American Provinces which had a general banking law. This general banking law was contained in the provisions of chapters 54 and 55 of the Consolidated Statutes of Canada, 1859, entitled respectively, "An Act respecting Incorporated Banks," and "An Act respecting Banks and Freedom of Banking." Under said chapter 54 banks were authorized to open and establish branch offices  
 30 of discount or deposit in any part of the Province (sec. 2); to issue bank notes for general circulation, and to take by endorsement bills of lading, wharfinger's receipts, etc., as collateral security for the due payment of any bill of exchange or note discounted by the bank (sec. 8). Under said chapter 55, the business of banking was defined as follows:

"The business of banking shall for the purpose of this Act mean the making and issuing of bank notes, the dealing in gold and silver bullion and exchange, discounting of promissory notes, bills and negotiable securities, and such other trade as belongs legitimately to the business of banking" (sec. 1).

The profitable conduct of the business of banking necessarily involves the lending of money, and this said chapter 54 expressly contemplated by requiring the monthly statement to be transmitted by banks to the Minister of Finance to show, *inter alia*, “The amount of notes in circulation, of loans and discounts and of specie on hand” (sec. 89).

In *Jones v. Imperial Bank of Canada* (1876) 23 Grant’s Chan. Rep. 262, Proudfoot, V.C., after referring to the provisions of the Freedom of Banking Act, cited above, and the provisions of various ante-union special Acts incorporating banks, said at pp. 274-275:

10           “ The conclusion which seems to me deducible from these Acts is that the business of banking consists in dealing in money, the precious metals and in bonds and negotiable securities; that this dealing confers the power of lending on them or of purchasing them, whichever the bank directors may deem most for the advantage of the corporation.”

Other and more modern definitions of the business of banking do not substantially differ.

Halsbury’s Laws of England, 2nd ed., Vol. 1, p. 782:

20           “ A ‘ banker ’ is an individual, partnership, or corporation, whose sole or predominating business is banking, that is the receipt of money on current or deposit account and the payment and collection of cheques, drawn by or paid in by a customer. The judicial recognition of the banker’s lien implies the inclusion in banking business of the making of advances or the granting of overdrafts to customers.”

Morse on Banks and Banking, 6th ed. (1928), Vol. 1, Section 2, pp. 6 and 7:

30           “ A bank is an institution, usually incorporated, with power to issue its promissory notes intended to circulate as money (known as bank notes); or to receive the money of others on general deposit, to form a joint fund that shall be used by the institution for its own benefit, for one or more of the purposes of making temporary loans and discounts, of dealing in notes, foreign and domestic bills of exchange, coin, bullion, credits, and the remission of money; or with both these powers, and with the privileges, in addition to these basic powers, of receiving special deposits, and making collections for the holders of negotiable paper, if the institution sees fit to engage in such business.

Historically, receiving special deposits is the root of the banking business, but it is now of little importance compared with the great tree that looms against the sky of nineteenth century civilization.”

Hart's Law of Banking, 3rd ed., p. 1:

“A banker is one who in the ordinary course of his business honours cheques drawn upon him by persons from and for whom he receives moneys on current account”;

and at p. 2:

“A customer is one who has an account with a banker.”

There, therefore, appears to be solid ground in principle and authority for the opinion expressed by Sir Allen Aylesworth, Minister of Justice, and approved by the Order of His Excellency the Governor General in Council of May 31, 1911, 10 disallowing an Act of the Legislature of Quebec, chapter 82, 1910, entitled “An Act to Amend the Charter of the General Trust”:

“The receiving of money upon deposit and the lending of money at interest are important features of banking; and doubtless, as Lord Brougham observes (in *Foley v. Hill*, 2 H.L.C. at p. 43), a banker who does not receive interest could not afford to pay interest, but the statement of these two powers does not by any means constitute an adequate description of the whole business of a banker.

20 The expression ‘Banking’ as used in section 91 of ‘The British North America Act, 1867’ is in the opinion of the undersigned intended to describe not only such powers as are inherently banking powers, but also those which were, under the laws of the provinces at the time of the Union, exercised by the banks in the carrying on of their business, and it includes everything within legitimate banking business as it is practised or has been developed. It may be seen by reference to pre-union legislation that the deposit of money at interest and dealing in exchange were expressly authorized banking transactions in the provinces. Leading decisions in the United States also show that such powers are attributed to the banks in that country, in fact it seems impossible to suppose that these powers are not necessarily common to all well ordered banking systems.

30 The fact that before the enactment of ‘The British North America Act, 1867,’ as well as since, private bankers have engaged in the business of exchange, or, which is equally true, in the receiving of customer’s money upon deposit, does not make this sort of business any the less banking, or remove it from the legislative authority of parliament; nor does this fact affect the question as to whether these powers may be competently conferred by the local legislatures.

The argument of the Acting Attorney-General appears to suggest the view that the legislature by progressive steps year by year may build up a group of powers which however objectionable as a whole should only be considered in respect of the latest particular and not in combination. If this view be conceded it might be anticipated that at another sitting of the legislature the clause prohibiting the lending of money on security of bills of exchange or promissory notes would be repealed, and thus this company would become not only a bank of deposit and exchange, but also a bank of discount. In fact, the undersigned does not perceive in what respect the powers of this company can now be enlarged for the purpose of enabling it to compete with the banks in all transactions, except by the removal of the disqualification as to the discounting of bills and notes, and by the grant of power to issue paper money.”

Furthermore, the fact that under sec. 3 the Bill apparently applies only to existing institutions suggests that banks alone are in view, because new banks are not likely to enter the Province, whereas new lending persons or companies or new vendors on credit may appear at any time. Also, the fact that the final authorities under the Bill are the “Provincial Credit Commission” and the “Social Credit Board” for the purpose of compelling credit institutions to assist in the functioning of the social credit plan points very clearly to the banks as being those aimed at.

It is submitted, therefore, that the Bill has meaning and content only if it is applied to banks; if it is not applied or does not apply to banks it is destitute of meaning and content and there is nothing upon which it can operate. This conclusion stands in an especially clear light when the Bill is compared, section by section, with the provisions of the disallowed Act which it professes “to amend and consolidate,” and when it appears as a result of that scrutiny that the Bill contemplates the “credit institution” holding large quantities of legal tender in its possession.

The concluding words of sec. 2 (b) and sec. 7 of the Bill require consideration. The former profess to exclude from the scope of the definition of business or dealing in credit “transactions which are banking within the meaning of the word ‘banking’ as used in subhead 15 of sec. 91 of the British North America Act, 1867,” and sec. 7 (which is in the identic terms of sec. 9 of the disallowed Act (Case, p. 114, ls. 30 to 32)) provides that

“No provisions of this Act shall 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.” (Case, p. 14, ls. 25 to 27.)

In *The King v. Nat Bell Liquors Ltd.* (1922) 2 A.C. 128, the Judicial Committee (speaking by Lord Sumner), discussing the effect of the repeal of a provision

in The Alberta Liquor Act of 1916 which purported to exclude from the operation of the Act "bona fide transactions in liquor between a person in the Province of Alberta and a person in another province or in a foreign country," said at p. 136:

10 "In their Lordships' opinion the real question is whether the legislature has actually interfered with inter-provincial or with foreign trade. The presence or absence of an express disclaimer of any such interference may greatly assist where the language of the provincial legislature does not in itself determine the question and define its effect. If, however, it is otherwise clear that there is such an interference, or that there is none, and the language actually used sufficiently decides that question, there is no such sovereign efficacy in such a clause as s. 72 as to make its presence or absence in an enactment crucial."

The test then is, Aye or no, would the provisions of this Bill, if it were assented to, on their true construction actually interfere with banking or the incorporation of banks. If they would, then, in the words of Lord Sumner, "There is no such sovereign efficacy in such a clause as sec. 7 as to make its presence or absence in an enactment crucial"—except possibly where there are separate and independent provisions to which such a provision could give real existence: *Attorney-General of British Columbia v. Attorney-General of Canada (re Natural Products Marketing Act)* (1937) A.C. 377, 389. Lord Sumner's test would seem to apply with equal force to the concluding words of the definition contained in sec. 2 (b) of the Bill. It is submitted, therefore, that if that definition, on its proper construction, in other respects manifests a clear intention to make the provisions of the Bill applicable exclusively to banks and banking, the concluding words of the definition must be held either (1) to have effect wholly to nullify the definition, in which case the Bill, if assented to, would be *brutem fulmen*, or (2) to have no real effect as a disclaimer of an intention (otherwise clearly expressed) actually to interfere with banks or banking business. On the principle "*Ut res magis valeat quam pereat*" the latter alternative is probably the one to be adopted: See e.g. *The King v. Nat. Bell Liquors Ltd.* (1922) 2 A.C. 128, 137.

16. *Bill No. 8 Trenches upon "Banking and the Incorporation of Banks."* On the foregoing construction of this Bill, it is clearly *ultra vires* of the provincial legislature. The exclusive legislative authority of the Parliament of Canada extends under sec. 91 (15) of the British North America Act, 1867, to "Banking, incorporation of banks, and the issue of paper money." Parliament's authority to legislate in relation to these matters is exclusive and plenary; and its legislation upon these matters, including such provisions as are necessarily incidental

to effective legislation upon them, is of paramount authority even though it trenches upon matters assigned to the provincial legislatures by sec. 92: *Attorney-General for Canada v. Attorney-General for British Columbia* (1930) A.C. 111, 118, citing *Tennant v. Union Bank of Canada* (1894) A.C. 31; reaffirmed in *In re Regulation and Control of Aeronautics in Canada* (1932) A.C. 54, 71-72.

In *Tennant v. Union Bank of Canada*, *supra*, at p. 46, the Judicial Committee of the Privy Council (speaking by Lord Watson) said in reference to the scope of the Dominion Parliament's legislative jurisdiction in relation to "Banking, incorporation of banks, and the issue of paper money":

10            "The legislative authority conferred by these words is not confined to the mere constitution of corporate bodies with the privilege of carrying on the business of bankers. It extends to the issue of paper currency, which necessarily means the creation of species of personal property carrying with it rights and privileges which the law of the province does not and cannot attach to it. It also comprehends 'banking,' an expression which is wide enough to embrace every transaction coming within the legitimate business of a banker."

In that case the Board held that legislation as to warehouse receipts taken as security by a bank in the course of the business of banking was legislation relating to a matter coming within the class of subject above described, that the provisions  
20 of the Bank Act, with respect to such receipts, were *intra vires*, and that parliament's power to legislate in relation to the class of subject specified in sec. 91 (15) of the British North America Act, 1867, "may be fully exercised, although with the effect of modifying civil rights in the province."

The provisions embodied in Bill 8 are, it is submitted, clearly invalid because they are directed to the purpose of bringing under the control of provincial agencies the policy and business of banking, and thereby involve an essential encroachment on the exclusive legislative authority of the Dominion Parliament in relation to banking, and also, as regards the provisions for appointing local directorates, "incorporation of banks." "That subject ('incorporation')" said Duff J. (*In Re*  
30 *Companies* (1913) 48 S.C.R. 411) "would include the constitution of the company, the designation of its corporate capacities, the relation of the members of the company to the company itself, the powers of the governing body. How much more it would include may be left to be determined in each concrete case in which the point arises." Or as was said in *The Insurance Contracts Reference* (1926) 58 O.L.R. 404, 417, by Masten, J.A.:

"It may be assumed that the Dominion Parliament is competent to grant to a company incorporated by it a status as a Dominion corporation, to confer upon it its capacities, to endow it with powers and prescribe limitations of

these powers . . . . . It can prescribe the number and mode of election of its Board of Directors and detail its powers; generally, it can legislate respecting the internal relations of the members or shareholders, and the regulation of the domestic affairs of the company.”

And so in *John Deere Plow Co. v. Wharton* (1915) A.C. 330, 344, the Judicial Committee (speaking by Lord Haldane) said:

10 “ They (their Lordships) are unable to place the limited construction upon the word ‘ incorporation ’ . . . . . which was contended for by the respondents and by the learned counsel who argued the case for the province.”

The contention so negatived was that the effect of incorporation by the Dominion was to give the company merely subjective capacity to carry out certain objects, and that the rights and actual powers of the company after it had been created, were a matter for the province, under the head of “ property and civil rights.”

If the Parliament of Canada can so legislate in relation to a company incorporated under its general or residuary power to make laws for the peace, order and good government, *a fortiori*, can it so legislate in relation to the “ Incorporation of Banks,” an enumerated subject matter (head 15) of sec. 91 of the British North America Act, 1867, seeing that this is a power which may be exercised “ notwithstanding anything  
20 in this Act.”

17. It is, therefore, submitted that the provisions of Bill No. 8 which provide for local directorates for credit institutions, and for the appointment of a majority of the members of each of such directorates by the Social Credit Board are, in their application to the chartered banks, a manifest and flagrant encroachment upon the exclusive legislative authority of the Parliament of Canada in relation to the “ Incorporation of banks,” and clearly in conflict with the provisions of the Bank Act, Chap. 24 of the Statutes of Canada, 1934.

30 18. *Bill 8 Trenches on “ The Regulation of Trade and Commerce ”*: It is submitted that Bill 8 is, in pith and substance, a measure in relation to “ the regulation of trade and commerce,” a subject matter committed by sec. 91 of the British North America Act, 1867, to the exclusive legislative authority of the Parliament of Canada, and is, for that reason, independently of any other, *ultra vires* of the Legislature of Alberta.

In the construction of this subject matter of legislative jurisdiction, the Judicial Committee found it to be “ absolutely necessary that the literal meaning of the

words should be restricted in order to afford scope for powers which are given exclusively to the provincial legislatures." (*Bank of Toronto v. Lambe* (1887) 12 A.C. 575, 586; *City of Montreal v. Montreal Street Railway* (1912) A.C. 333, 343, 344.) Accordingly, this head of jurisdiction has been held not to justify the regulations by legislation of the contracts of a particular trade or business, such as the business of fire insurance in a single province (*Citizens Insurance Co. v. Parsons* (1881) 7 A.C. 96, 113), or the regulation by a licensing system of particular trades in which Canadians would, apart from any right of interference conferred by this power, be free to engage in the provinces. Insurance Reference (1916) 1 A.C. 588, 596.

10 But quite consistently with the principle underlying the restrictions on the exercise of the power to regulate trade and commerce illustrated by these and other decisions, that power has been held to embrace exclusive authority for regulations governing external trade, that is, trade between Canada and foreign countries as well as regulation of trade in matter of interprovincial concern. In *Citizens Insurance Company v. Parsons* (1881) 7 A.C. 96, 113, the Judicial Committee without attempting to give an exhaustive definition of the scope of the power, said the words "regulation of trade and commerce" would include "political arrangement in regard to trade requiring the sanction of Parliament, regulation of trade in matters of interprovincial concern, and it may be that they would include general regulation  
20 of trade affecting the whole dominion." This interpretation was formally approved by the Judicial Committee in *John Deere Plow Company v. Wharton* (1915) A.C. 330, 340, and has been given definite application and effect.

First, *as regards external trade*, it has been held to embrace exclusive authority to regulate external trade and commerce by means of the imposition of customs duties or otherwise (*Attorney-General for British Columbia v. Attorney-General for Canada* (1924) A.C. 222, 225), to prescribe the conditions upon which a foreign insurance company should be entitled to carry on its business even within the limits of a single province (Insurance Reference (1916) 1 A.C. 588, 597), and to authorize the investigation of the character of the facilities for, and the rates of, domestic transport:  
30 Reference *re The Combines Investigation Act* (1929) S.C.R. 409, 417, 418, per Duff, J; affirmed on appeal (1931) A.C. 310.

Secondly, *as regards interprovincial trade*, "the regulation of trade and commerce" has been held to authorize legislation by the Dominion Parliament for the regulation of the exportation or importation of commodities from or into any province to or from another province: (*Gold Seal Limited* (1921) 62 S.C.R. 424; *Attorney-General for Ontario v. Attorney-General for Canada* (1896) A.C. 348, 369, 371; *The King v. Nat Bell Liquors Limited* (1922) 2 A.C. 128, 136; answers to questions 3 and 4) and to preclude the provinces from legislating in regard to



trading matter of interprovincial concern: *Hudson Bay Company v. Hefferman* (1917) 3 W.W.R. 167 (Provincial enactment prohibiting keeping of liquor within the province for export to other provinces or foreign countries: *ultra vires*); *Lawson v. Interior Tree Fruit and Vegetable Committee of Direction* (1931) S.C.R. 257 (Provincial enactment providing for compulsory control of the marketing outside the province of tree fruits and vegetables grown within the province: *ultra vires*); In *re The Grain Marketing Act* (1931) 2 W.W.R. 146 (Provincial enactment creating a compulsory wheat pool for the marketing of all grain grown in the province and destined to be marketed either within or without the province: *ultra vires*). These

10 decisions fully justify the statement of Duff, J. in *Lawson v. Interior Tree Fruit and Vegetable Committee of Direction* (1931) S.C.R. 257, at p. 371, where, in summing up an elaborate consideration of the power to regulate trade and commerce, he said:

“The more recent cases leave entirely untouched the view embodied in the passage quoted from *Parsons Case* (1881) 7 A.C. 96, and expressly adopted in *Wharton’s Case* (1918) A.C. 330, that foreign trade and trading matters of interprovincial concern are among the matters included within the ambit of head 2, s. 91.”

Thirdly, *as regards the general trade of Canada* “the power to regulate trade and commerce at all events enables the Parliament of Canada to prescribe to what

20 extent the powers of companies the objects of which extend to the entire Dominion should be exerciseable, and what limitations should be placed on such powers. For if it be established that the Dominion Parliament can create such companies, then it becomes a question of general interest throughout the Dominion in what fashion they should be permitted to trade”: *John Deere Plow Company v. Wharton* (1915) A.C. 330, 340.

Finally, it is to be observed that the view that the power to regulate trade and commerce can be invoked only in aid of a power Parliament possesses independently of it was definitely repudiated by the Judicial Committee in *Proprietary Articles Trade Association v. Attorney-General of Canada* (1931) A.C. 310, 326, where Lord

30 Atkin delivering the judgment of the Board said:

“Their Lordships merely propose to disassociate themselves from the construction suggested in argument of a passage in the judgment in the Board of Commerce Case (1922) 1 A.C. 191, 198, under which it was contended that the power to regulate trade and commerce could be invoked only in furtherance of a general power which Parliament possessed independently of it. No such restriction is properly to be inferred from that judgment. The words of the statute must receive their proper construction where they stand as giving an independent authority to Parliament over the particular subject matter.”

While it is true that Bill 8 takes the form of a licensing Act over all those who are engaged in the "business of dealing in credit," the central purpose and essence of this measure, considered in light of the Social Credit theory and of the main Social Credit measure, "The Alberta Social Credit Act" (Case, p. 85, ls. 20 to 33; pp. 86 to 103), and of the aspect or point of view of the legislators so disclosed, is not to license a particular trade or business, as such (for dealing in credit is not a trade or business in itself like selling dry goods), but is to provide for the control of credit through the agencies having power to expand or contract it, in relation to and as affecting all trades and businesses generally—in other words, trade and commerce without distinction as to whether it be local, interprovincial or foreign. It involves the regulation of that which is an essential and indispensable element in practically all trades and businesses.

Legal tender plays an insignificant role in Canadian business transactions. Over ninety-seven per cent of all such business transactions are transacted by means of banking or financial credit, and only the small fractional balance of such transactions involves the actual transfer of legal tender across the counter. Credit is, therefore, the life-blood of trade and commerce—an indispensable element of trade and commerce, as such, generally; and from that point of view, the provisions of Bill 8 involve an attempt to regulate trade and commerce generally in one of its most important aspects. This submission is, of course, enforced by a consideration of the provisions of The Alberta Social Credit Act, the whole scheme of which is absolutely one to regulate trade and commerce and to have it financed by the banks on a novel basis. The Bill is, therefore, a project of legislation referable to the exclusive Dominion power to regulate trade and commerce; and if this submission be well-founded, then it follows that legislation in relation to this subject by a Provincial Legislature is incompetent: *Attorney-General for Canada v. Attorneys-General for the Provinces* (The Fisheries Case) (1898) A.C. 700; *Great West Saddlery Co. v. The King* (1921) 2 A.C. 91, 100, 101.

19. **Three Reserved Bills Parts of One Scheme or System of Legislation:** Considered in light of the principles of the Social Credit theory as expounded by Major Douglas, of his advice and suggestions concerning the application of those principles in the Province of Alberta, of the avowed policy of the Social Credit Government of Alberta, and of the legislation concerted by that Government towards the attainment of its policy, the three Reserved Bills now in question manifestly form part and parcel of one scheme or system of legislation—sinews of the "strategy" advised by that economist to achieve "the preliminary objective," that of "acquiring power to deal with the public credit," or "of obtaining access to the public credit": Appendix, p. 96.

The legislation may be classified as follows:

(1) The main Social Credit measure, The Alberta Social Credit Act, Chap. 10, 1937 (First Session) (Case, p. 85, ls. 20 to 33; pp. 86 to 103) appears to have been concerted to provide a plan for "the utilization of the public credit, when control of it has been acquired" rather than "a strategy for acquiring power to deal with the public credit"; and complementary to it are

10 (2) The Department of Trade and Industry Act Amendment Act, 1936, Chap. 66 (First Session) (Case, pp. 34 and 35, ls. 1 to 18), as amended by the Department of Trade and Industry Act Amendment Act, 1936 (No. 2) Chap. 9 (Second Session) (Case, pp. 68 and 69); and

(3) The Licensing of Trades and Businesses Act, 1937 (Third Session) (Case, pp. 123 to 126),

since the latter are directed towards asserting government control over industrial production and the regulation of the "just price," essential elements of the Social Credit plan.

To the attainment, on the other hand, of the "preliminary objective" may be directly related, as integral elements of the one scheme or system of legislation referred to, the following measures:

20 (4) The Credit of Alberta Regulation Act, Chap. 1, 1937 (Second Session): Case, pp. 111 to 114; p. 115, ls. 1 to 19.

(5) The Bank Employees Civil Rights Act, 1937 (Second Session): Case, p. 115, ls. 21 to 33; p. 116, ls. 1 to 20.

(6) The Alberta Social Credit Act Amendment Act, 1937, Chap. 3 (Second Session): Case, p. 116, ls. 21 to 30; p. 117; p. 118, ls. 1 to 15.

(7) The Judicature Act Amendment Act, 1937, Chap. 5 (Second Session): Case, p. 119, ls. 14 to 32.

30 (8) Order of Lieutenant-Governor in Council of Alberta dated September 24, 1937 (O.C. 1110-37), amending the Consolidated Rules of the Supreme Court of Alberta: Case, p. 120; p. 121, ls. 1 to 13.

(9) Reserved Bill No. 1, entitled "An Act respecting the Taxation of Banks, 1937 (Third Session): Case, p. 9, ls. 14 to 29; p. 10; 11, ls. 1 to 13.

(10) Reserved Bill No. 8, entitled "An Act to Amend and Consolidate the Credit of Alberta Regulation Act, 1937" (Third Session): Case, p. 11, ls. 14 to 32; pp. 12 to 14; p. 15, ls. 1 to 13.

(11) Reserved Bill No. 9, entitled "An Act to Ensure the Publication of Accurate News and Information," 1937 (Third Session): Case, p. 15, ls. 14 to 32; pp. 16, 17; p. 18, ls. 1 to 6.

These measures appear to have been devised as methods of the "strategy" for "acquiring power to deal with the public credit"—that is to say, Douglas' "preliminary objective, that of obtaining access to the public credit." The measures numbered 7 and 8 buttress that "strategy" by ousting the jurisdiction of the courts and thus depriving interested or aggrieved persons of any opportunity of calling in question the constitutional validity of the Social Credit Government's measures, and are thus strong indications of the doubts entertained by that Government as to the constitutional validity of its social credit measures.

20 That the dominant object and design of Bill 8, entitled "An Act to Amend and Consolidate the Credit of Alberta Regulation Act, 1937," is to assert control over the agencies having power to deal with the public credit and thereby bring about "the monetization of the credit of the people of Alberta" in accordance with the scheme of The Alberta Social Credit Act, appears from what has already been stated above.

That Bill 1, entitled "An Act respecting the Taxation of Banks," and Bill 9, entitled "An Act to Ensure the Publication of Accurate News and Information" are only, in form and ostensibly, measures passed for the purpose of raising a revenue for provincial purposes by taxation of banks, and for regulating the publication of news in the press of Alberta, and are really, in pith and substance, 20 part and parcel of the same project as Bill 8, becomes evident on consideration of all the attendant circumstances and of the authoritative declarations which have been made as to the policy and motives to which those measures were designed to give effect.

*First:* The introduction of Bills 1 and 9, in common with Bill 8, in the legislative assembly of the Province of Alberta was foreshadowed in the speech from the Throne at the opening of the Special 1937 (3rd) Session of the Legislative Assembly of Alberta on the 24th September, 1937, in the following terms:

30 "The necessity of the Special Session would indicate to you that grave difficulties must be overcome if the mandate of Our People is to be implemented. . . . At this Special Session you will be called upon to deal with certain conditions affecting the credit situation in our Province. Legislation will be presented to you for the purpose of liberating credit facilities which will enable Our People to enjoy the full benefit of their own production."

All three Bills were thus introduced in consequence of the disallowance by the Order of His Excellency the Governor General in Council on August 17, 1937, of the three Acts which had been passed at the second session of the legislature held a few weeks previously—in particular, The Credit of Alberta Regulation Act, and

The Bank Employees Civil Rights Act, the declared object of which was to assert control over the banks in Alberta and "the monetization of the credit of the people of Alberta," with the object of attaining for the people of Alberta the full enjoyment of property and civil rights in the province.

*Secondly:* By sec. 3 (7) of The Alberta Social Credit Act, as amended by The Alberta Social Credit Act Amendment Act, 1937, chap. 3 (Second session) (Case, p. 117, ls. 18 to 25), it is one of the functions of the Social Credit Board with approval of the Lieutenant-Governor in Council "to do such acts as it may from time to time deem proper for the purpose of promoting, conserving and enhancing  
 10 the Social Credit of the province and for this purpose the Board may expend any moneys appropriated by the legislative assembly for the expenses of the Board, in such manner as the Board in its discretion considers necessary for the discharge of the said functions." By Order of His Honour the Lieutenant-Governor in Council of Alberta, dated September 22, 1937 (O.C. 1070-37), the full text of which will be found in the appendix to this factum at p. 115, passed on the recommendation of the Honourable the Provincial Treasurer under the authority of the provision above quoted, the Social Credit Board was authorized to establish and operate,—

- 20 (a) an information bureau to provide newspapers and radio broadcasting stations with news relative to Social Credit and the activities of the Government and of the Board with relation to the same and to collect matter published in newspapers and by radio both in support of and in opposition to Social Credit and report on the same to the Government, and
- (b) a circulation department for the compilation, publication and distribution of leaflets, circulars and booklets giving information as to the manner in which the results of Social Credit can be realized,

and for these purposes to expend a sum not exceeding \$5,000. The Director of Public Relations (Mr. A. J. Allnutt) is an officer of that Board, in charge of its publicity department. He is charged with the duty of issuing to the newspapers  
 30 and Social Credit groups accurate statements as to government policy already enunciated and as to governmental activities. In October last, he commenced issuing a series of bulletins dealing (as his bulletin of October 21, 1937, relating to the Press Act, i.e., reserved Bill 9, states) "with recent Acts giving reasons for them, explaining them and the benefits that will accrue from them." These bulletins, in supplement of ministerial declarations of the policy of the Social Credit Government, furnish reliable official statements of the real policy and design sought to be given effect by Bills 1 and 9. They are revealing in the candour with which they disclose the true inwardness of these measures. The full

text of the bulletins so issued in relation to these Bills will be found in the Appendix to this Factum: pp. 130, 133. The true aspect, the real pith and substance, of Bills 1 and 9 are put in a clear light by the specific declarations and statements as to the policy of the Social Credit Government hereinafter referred to.

A. *As to Bill 1, entitled "An Act respecting the Taxation of Banks":*

(a) In announcing on the floor of the Alberta Legislature on August 5, 1937, the abolition as of September 1st of the provincial sales tax, the Honourable Solon E. Low, Provincial Treasurer of Alberta, read a prepared extract (see extract from the *Edmonton Journal* of August 5, 1937, App. p. 115) in which he said:

10           "An amicable arrangement with the banks will, it is hoped, provide replacement of the revenue which will be lost by this remission. *Otherwise it will be necessary to monetize the credit of the province through their taxation.* This coincidentally with the remission of the sales and other taxes, will introduce another essential to the Douglas technique of social dynamics, namely, the 'just price' . . . . . whether the banks furnish the money willingly or otherwise, it will cost them nothing. There is one other point I wish to make and that is that it is the intention of this government to steadily remit taxation in this way until the costs of manufacturing in this province will be so reduced that goods made here can secure the preference of Albertans  
20 as to quality, style or price against any other goods made anywhere in the world."

(b) In an address entitled "Your Credit and Mine," broadcast at Edmonton, Alberta, on September 23, 1937 (the full text of which was recently published in a pamphlet by the Social Credit Board of Alberta and will be found in the Appendix to this Factum, p. 117), the Honourable Solon E. Low said:

30           "The commercial banks monetize the wealth of the people by granting loans in the form of book-entry deposits backed solely by the wealth given as security. This purchasing power amounts to many many millions and costs the bank nothing but the ink and paper necessary to write the figures down. Hence, if a bank is required to pay taxes, it can do so by issuing a cheque upon itself which does not represent its own cash nor that of its depositors. That cheque may represent the hitherto unmonetized wealth of the people of the country in which the bank operates, and therefore costs the bank nothing but the keeping of the accounts."

It will be noted how closely Mr. Low's theory that the taxation of the banks "costs them nothing" follows and adopts Major Douglas' Social Credit thesis, as stated in

his first interim report that, "The provision or withholding of effective demand" (his term for credit instruments such as cheques, which are accepted as money) "is in essence merely a bookkeeping process" App. p. 95.

(c) The bulletin issued by the Director of Public Relations of the Social Credit Board of Alberta, in relation to Bill 1, exposes the real policy and design of this measure in the following passages:

10 "Having been denied the right to control its credit policy by the action of the Federal Government in disallowing The Bank Act, there is only one way in which increased revenue could be realized and that was by taxing the only institution empowered to monetize the credit of the people in terms of cheque-book money. This was, at least, a field in which the Province had every right to expect its power was unchallenged. How far are we justified in making the statement that the Banks monetize the credit of the people? Leading world authorities on banking practice can be quoted but a reference to the Canada Year Book gives ample proof, and let us here cite just one instance:

the coin and notes in circulation in Canada, December, 1936...\$ 238,000,000  
the amount of bank deposits December, 1936.....\$2,230,148,927

20 The difference, \$1,992,148,927, is therefore credit in the form of cheque-book money, created by the banks. We contend that since the creation of cheque-book money is made possible by the banks monetizing the real credit of its citizens of this province, its control must be within the ambit of our constitution. Let us not overlook the fact that the great controlling factor in our business life is cheque-book money, and not coinage and not currency, which is small in proportion. If cheque-book money is created by the banks and it is done by monetizing the credit of the people, then the provincial government has a moral and constitutional right to exercise a measure of control over the policy of the banks, and most certainly the right to tax them.

30 Now let us consider what is meant by the act. The new tax levy is 1/2 of 1 per cent on the Dominion-wide paid-up capital of every bank having an office in Alberta, and 1 per cent on the reserve and undistributed profits. This is expected to yield somewhere in the vicinity of \$2,200,000. The Act is intended to apply only to chartered banks, the idea being not to include corporations which loan only the assets they actually have, or which accept savings deposits, incidental to the other business, but the banks which actually monetize credit by issuing money.

\* \* \* \* \*

It has been charged that the Government in its attitude towards the banks has shown utter disregard for their great responsibilities of the banks to the

public and the extent to which they function in serving the people at large. As a matter of fact, nothing could be further from the truth. The Government recognizes that the monetizing of the credit of the people is fundamental to every phase of social and economic reform which it had contemplated from the beginning and to the cause of Social Credit. In all its acts it has been guided by the policy that whatever powers the chartered banks of Canada possessed to monetize credit should be placed at the disposal of the people and subject to some measure of control by the people. The Government, however, is determined that the policy in withdrawing or extending credit, which is based solely  
 10 on the ability of the people to create wealth and provide services, should belong to the people and not to the banks. Taxing power of all bodies, municipal and provincial, has been stretched to the limit and in many cases beyond it, but one thing remains and that is, for the people to demand that the monetization of their own credit shall be used to pay their own taxes; thus leading to an early solution of the complex problems which an ever-mounting tax burden imposes.

Increased taxes on banking institutions based on the power they possess and their ability to monetize the credit of the people of Alberta would afford a great measure of immediate relief from unbearable tax burdens and release  
 20 money at present paid out in taxes for industrial development, which would in turn help to absorb many more men into industries and useful employment." App. pp. 131, 132.

"It will be necessary to monetize the credit of the people of the Province through their (the banks) taxation." "In all its acts it (the Government) has been guided by the policy that whatever powers the chartered banks of Canada possess to monetize credit should be placed at the disposal of the people and subject to some measure of control by the people . . . one thing remains and that is for the people to demand that the monetization of their own credit shall be used to pay their own taxes." These declarations of policy, coupled with the theory that the  
 30 taxation imposed "costs the banks nothing," distinctly link up Bill 1 with the Social Credit Government's "preliminary objective, that of obtaining access to the public credit." In form, but only in form, Bill 1 is taxation; in substance, it is applied Social Credit theory.

It is thus made perfectly evident that Bill 1 is not a *bona fide* exercise of the provincial taxing power, but on the contrary, an attempt, under the guise of taxation, to place the powers which these institutions possess "to monetize credit" "at the disposal of the people and subject to some measure of control by the people," or, as the bulletin also expresses it, "the monetization of their own" (that is, the people's) "credit shall be used to pay their own taxes."



B. As to Bill 9, entitled "An Act to Ensure the Publication of Accurate News and Information: The Bulletin issued on October 21, 1937, by the Director of Public Relations of the Social Credit Board of Alberta, puts in a very clear light the real object and design of this measure. The bulletin states, in part:

10 ". . . the press of this country, and this province, is not free . . . it is dominated from many diverse points, all of which can be traced back to the hidden hand of high finance. . . . The Government of Alberta has devoted itself to fighting the money barons—and their influenced press—even though the Government possess no newspapers with which to answer their continuous unreasoning, indiscriminatory criticism and abuse . . .

Alberta has made up its mind to control its own credit, and the control of news, and the control of credit are concentric. That is to say, if you control one you control the other.

Don't be misled for one moment into thinking that the powers to be in the international world are not fully alive to that fact.

20 When you see your government putting through legislative acts that excite interests so powerful as to set up one unified cry of rage throughout the newspapers of the entire English-speaking world, you can be sure that your government is hitting the enemies of the peoples of the world in a manner which fills the financial controllers of the press with apprehension that they will lose the domination of those peoples."

The extracts from the Bulletin above quoted appear to have been taken *ipsissima verba* from the text of an Address entitled "The truth about the Press Act," delivered over Station CJCA Edmonton, on Thursday, October 21, 1937 by Dr. J. J. McPherson, Member of the Legislative Assembly of Alberta, recently published in pamphlet form with the texts of two other Addresses by authority of the Social Credit Board of the Province of Alberta. It is to be observed how closely 30 in Major Douglas' first interim report on "The possibilities of the application of Social Credit principles to the Province of Alberta," dated May 23, 1935. The full text of the report is to be found in the Appendix to this Factum (pp. 93, 100), and pertinent quotations therefrom are set out in para. 13 above. The very first of "the preliminary steps" advised by Major Douglas towards achieving his "preliminary objective, that of obtaining access to the public credit" was,—

"The systematic provision of a News circulating system under the unchallengeable control of the Province, particularly in regard to radio facilities of sufficient power to cover a wide geographical area";

and this step was linked up with two other steps, including the organization of credit institutions which would give effect to the creation of effective demand through the credit system on social credit principles. In explanation of this step, Major Douglas emphasized the importance of the Press as an agency whereby vindictive action by the financial authorities could be pilloried. He also advised, in the letter transmitting his first interim report to the Government of Alberta, the organization of a Department of Public Relations specifically to deal with criticisms from the public both with a view to keeping the general public informed and also for the purpose of discouraging, by suitable methods, loose accusations  
 10 of defective administration.

In keeping with this statement of the *raison d'être* and underlying policy of this measure, the preamble of Bill 9 recites that it is "in the public interest that the newspapers published in the Province should furnish to the people of the Province a statement made by the authority of the Government of the Provinces as to the true and exact objects of the policy of the Government and as to the hindrances to or difficulties in achieving said objects to the end that the people may be informed with respect thereto." The administration of the measure is, accordingly, committed to the Chairman of the Social Credit Board, an officer who has no other duties than those connected with Social Credit (Case, p. 88, ls. 1 to 22) including  
 20 in particular the primary duty of "promoting, conserving and enhancing the Social Credit of the Province" (Case, p. 117, ls. 18 to 25). This measure is, consequently without significance and is, indeed, not susceptible of practical operation, except as a means "of promoting, conserving and enhancing the Social Credit of the Province" (Case, p. 117, ls. 18 to 25). It is thus made evident that its real object and design are not the regulation of the press of Alberta for the sake of regulating the publication of news generally, but regulation of the press only as to statements concerning  
 30 "the true and exact objects of the policy of the government"—in other words, regulation of the press simply and solely as a method of "strategy" (the importance of which Major Douglas took special pains as already appears to emphasize in his first interim report and in his subsequent correspondence with Premier Aberhart) for achieving the "preliminary objective, that of obtaining access to the public credit." "The control of news and the control of credit are concentric:" this tersely reveals the impelling motive.

21. That these measures are part and parcel of a larger scheme which is itself beyond the legislative competence of the Alberta Legislature becomes still more evident when they are considered in light of the analysis previously made in this factum of the entire Social Credit legislation of Alberta. Dealing now only with the essential characteristics of that scheme, it appears to amount to this: the desire

of the legislature is that the purchasing power of the people of Alberta be increased "in order to effect equation between the purchasing power of such persons within the Province and production within the Province" (Case, p. 40, ls. 8 to 11; p. 91, ls. 25 to 30). The belief of the Legislature is that credit institutions—banks—can and do create credit by issuing credit instruments principally their own notes, and by their acceptance of cheques, without cost to themselves. The aim is to transfer that power to a governmental agency. This governmental agency is to create credit instruments and to present them as a gift to the people, care being taken, by methods that may not be disclosed here, to avoid undue expansion of credit. This is to be

10 done by means of a provincial bank called "The Alberta Credit House," which is empowered to honour cheques called "credit vouchers" and issue paper money called "Provincial Treasury Certificates." It is a complete bank in every respect except that it makes a present of its paper money to the public, and its lending powers are limited. It is obviously indispensably necessary to the success of such a scheme that every one should be induced to believe in it and help it along. The first essential for achieving that object is propaganda: hence Bill 9 now under consideration, the character of which is, as has been stated, made clear by the fact that the governmental authority entrusted with the enforcement of the Bill is the Chairman of the Alberta Social Credit Board, an official who has absolutely nothing to do with anything

20 except Social Credit and includes among his primary functions the conduct of propaganda.

The next step taken is coercive. By the Alberta Social Credit Act discounts on retailers prices to consumers for goods or services are fixed by the Board. Retailers who sign an agreement with the Board will be compensated by discount vouchers, and these discount vouchers will be accepted for deposit by the Credit House at their face value. The agreement will undoubtedly contain a proviso that these retailers will help along the scheme principally by accepting these new credit instruments or certificates as money. It is provided that these dealers must undertake not to do business with any producer, wholesaler or manufacturer who does not sign an agree-

30 ment with the Board. The latter agreement would undoubtedly contain a similar clause.

By The Licensing of Trades and Businesses Act, the Minister may from time to time order that all persons engaged or employed in any trade, business, industry, employment or occupation, subject to certain exceptions, shall take out a licence, and this licence may be refused by the Minister on his own initiative or upon the report of any Board to which he has referred the question, including obviously the Social Credit Board. Undoubtedly the refusal of any one engaged in any trade, business, etc., to help along the Social Credit scheme would be considered a good reason to refuse the application for licence.

Complementary to this measure is The Department of Trade and Industry Act, Chapter 33 of the Statutes of Alberta, 1934, which, as amended by Chapter 66 of 1936 (First Session) (Case, p. 34; p. 35, ls. 1 to 18), is applicable to trade, business or industry, and gives the Government full power to prescribe and enforce trade codes fixing minimum and maximum prices chargeable for any commodity produced or dealt in by the trade or for any services rendered by the trade, which in itself is a regulation of trade and commerce.

Thus virtually every one in the Province is thoroughly controlled except the banks. The three Bills now under consideration are complementary parts of a single  
 10 indivisible scheme to bring the banks under control and not the least important element of this scheme is Bill 9, "An Act to ensure the Publication of Accurate News and Information."

22. **Bills Nos. 1, 8 and 9 are linked up with an illegal object:** Having thus demonstrated that the three Bills (Nos. 1, 8 and 9) are linked together and are part and parcel of one legislative scheme sharing a common aim, that of acquiring control over the policy of the institutions which alone possess, in view of the Social Credit Government, the power "to monetize the credit of the people of Alberta," and that that aim is one which involves essential encroachments upon the exclusive legislative authority of the Dominion Parliament in relation to "Banking, incorpora-  
 20 tion of banks and the issue of paper money," and "The regulation of trade and Commerce," it follows, it is submitted, that the said Bills are *ultra vires* of the province. The legislature cannot, it is submitted, by progressive steps build up a group of powers which, however objectionable as a whole, should only be considered in respect of the latest particular and not in combination: See opinion of Sir Allen Aylesworth, Minister of Justice, Prov. Legis. 1896-1920 at p. 260. Provincial legislation may well be *ultra vires* because it is an attempt to produce, piecemeal, an aggregate result which is *ultra vires*: Lefroy's Canada Federal System, p. 80; *Clarkson v. Ontario Bank* (1888) 15 O.A.R. 166, 181 per Haggerty, C.J.O.

Thus, in *Attorney-General for Ontario v. Reciprocal Insurers* (1924) A.C. 328,  
 30 the Judicial Committee, called upon to consider the validity of sec. 508C of the Criminal Code respecting insurance as enacted in 1917, had regard to the relation this enactment bore to the Insurance Act of 1917. The Board (speaking by the present Chief Justice of Canada) said at p. 332:

"These two statutes, which are complementary parts of a single legislative plan, are admittedly an attempt to produce by a different legislative procedure the results aimed at by the authors of the Insurance Act of 1910, which in *Attorney-General for Canada v. Attorney-General for Alberta* (1916) 1 A.C. 588, was pronounced *ultra vires* of the Dominion Parliament."

and at p. 336:

“The provisions relating to licences in the Insurance Act of 1910, which by this judgment was declared to be *ultra vires*, and the regulations governing licences under the Act and applicable to contracts and to the business of insurance, did not, in any respect presently material, substantially differ from those now found in the legislation of 1917; but the provisions of the statute of 1910 derived their coercive force from penalties created by the Insurance Act itself.

10 “The distinction between the legislation of 1910 and that of 1917, upon which the major contention of the Dominion is founded, consists in the fact that s. 508C is enacted in the form of an amendment to the statutory criminal law, and purports only to create offences which are declared to be indictable, and to ordain penalties for such offences. The question now to be decided is whether, in the frame in which this legislation of 1917 is cast, that part of it which is so enacted can receive effect as a lawful exercise of the legislative authority of the Parliament of Canada in relation to the Criminal law.”

The Board proceeded to decide that the amendment of the criminal law by sec. 508C was not a genuine amendment of the criminal law, but was really an attempt by a *soi-disant* amendment of the criminal law to subject insurance business in the province to the control of the Dominion, that which had exactly been determined 20 to be *ultra vires* by the judgment of 1916.

More recently, in the Quebec Insurance Reference (1932) A.C. 41, the Judicial Committee was again called upon to consider the validity of certain specified sections of the Dominion Insurance Act, 1927, R.S.C., chap. 111 (which consolidated an amendment enacted in 1924), in so far as those provisions applied to British and foreign insurers. The Board (speaking by Lord Dunedin) considered these provisions in the light of their legislative history and of the previous decisions of the Board relating to them, and decided that the Insurance Act was, in respect of those provisions, invalid because it was not “properly framed” legislation in execution of the legislative authority of Parliament in relation to “aliens” or 30 “immigration.”

Having arrived at that conclusion with reference to the provisions of the Insurance Act, the Board then proceeded to consider the second of the questions referred concerning the validity of sec. 16 of the Special War Revenue Act, R.S.C., 1927, chap. 179, whereby an annual 5 per cent tax was imposed on every person resident in Canada in respect of the total net cost of insuring his property in Canada or any property in Canada in which he had an insurable interest,

(a) with any British or foreign company, or British or foreign underwriter or underwriters, *not licensed under the provisions of the Insurance Act* to transact business in Canada, or

(b) with any association of persons formed for the purpose of extending reciprocal contracts of indemnity upon the plan known as inter-insurance, *not licensed under the provisions of the Insurance Act*, the chief place of business of which association or of its principal attorney-in-fact is situate outside of Canada.”

In holding the tax so imposed to be invalid the Board said at pp. 52-53:

“ Now as to the power of the Dominion Parliament to impose taxation there is no doubt. But if the tax as imposed is linked up with an object which is illegal the tax for that purpose must fall. Sec. 16 clearly assumes that a  
 10 Dominion licence to prosecute insurance business is a valid licence all over Canada and carries with it the right to transact insurance business. But it has been already decided that this is not so; that a Dominion licence so far as authorizing transactions of insurance business in a Province is concerned, is an idle piece of paper conferring no rights which the party transacting in accordance with Provincial legislation has not already got, if he has complied with Provincial requirements. It is really the same old attempt in another way.

“ Their Lordships cannot do better than quote and then paraphrase a portion of the words of Duff, J. in the *Reciprocal Insurers’* case (1924) A.C. 328,  
 20 342). He says: ‘ In accordance with the principle inherent in these decisions their Lordships think it is no longer open to dispute that the Parliament of Canada cannot, by purporting to create penal sanctions under s. 91, head 27, appropriate to itself exclusively a field or jurisdiction in which apart from such a procedure, it could exert no legal authority, and that if, when examined as a whole, legislation in form criminal is found, in aspects and for purposes exclusively within the Provincial sphere, to deal with matters committed to the Provinces, it cannot be upheld as valid.’ If instead of the words ‘ create penal sanctions under s. 91, head 27 ’ you substitute the words ‘ exercise taxation powers under s. 91, head 3,’ and for the word ‘ criminal ’ substitute  
 30 ‘ taxing ’ the sentence expresses precisely their Lordships’ views.”

It is submitted that Bills, Nos. 1, 8 and 9 are, in the words of the present Chief Justice of Canada in the *Reciprocal Insurers’* case (1924) A.C. 328, 332, “ complementary parts of a single legislative plan,” the central purpose of which is to assert control over the chartered banks of Canada as the only effective means of bringing about the “ monetization of the credit of the Province of Alberta,” and that, being in consequence “ linked up with an object which is illegal,” they are *ultra vires* of the legislature of Alberta.

24. Bill No. 1 "An Act respecting the Taxation of Banks," taken by itself, is *ultra vires*.—This Bill can only be justified, if at all, as being an exercise of the provincial power of taxation; otherwise, it is clearly banking legislation. It is admitted that the province can tax banks. The provincial power of taxation over banks, as in other cases, must be direct taxation in the province.

It is submitted, in the first place, that this is not taxation, the legislation being colourable and having another purpose entirely. In the second place, it is submitted that it is not direct taxation.

On the first point, it is submitted that there can have been no serious expectation whatever that the banks would pay this tax in Canadian currency. It is a fundamental principle of the system that the banks can, by creating deposits and causing cheques to be drawn thereon, create the equivalent of money. Presumably the position is that the banks could settle that tax in this manner. In that case they are not being taxed; they are in the same position as a printer hired by the Government to print notes for it. They create, for the use of the Government, money, and that is not taxation. Under such conditions the alleged taxpayer is deprived of the very serious protection that the good faith and sense of justice of the legislature gives him, namely, that the tax will not be excessive or discriminatory. Since according to the fundamental principle of Social Credit, the banks can manufacture money indefinitely the amount of the tax is of no importance to the banks. In fact, express statements to that effect were made by Mr. Low in his Address on the eve of the introduction of this Bill as appears from the quotations set out in paragraph 13 above.

If it is intended to be treated as taxation, which, in the Social Credit view, would only be conceivable if the Government refused to accept cheques and insisted on Canadian currency in payment, then it is as plain as day that the tax will be prohibitive. The aim, in that view, would be, not to tax, but to expel the banks from the Province and achieve that monopoly which, as pointed out earlier, is very important, if not essential, to the success of the scheme. It would, therefore, be both prohibition and perfecting the Social Credit plan, not taxation. The Government would not get a cent of revenue under that method. The Government would not need taxes under its plan. It wants to help the plan along and it may want to expel the banks.

That insistence on Canadian currency would expel the banks from the Province is obvious. Based on the proportion of the Alberta population of approximately 800,000 to the population of Canada as a whole of (according to the census, 10,000,000 approximately) a two million dollar tax from Alberta would if imposed by each of the other provinces, be a twenty-five million dollar tax. It cannot be

expected that, if such a tax were enforced by one province, the other provinces would allow such a discrimination against them and their people. If the banks do not escape (by reason of this Bill being held to be constitutional and being sanctioned), and if the Alberta Government enforces it in the manner above indicated by insisting on legal tender, unquestionably the other provinces would seek to protect themselves by imposing similar taxation. The Governments of these provinces would not need to be coerced, though undoubtedly there would be coercion by local public opinion.

At all events, the fairness of a provincial tax of this very exceptional amount  
 10 must be judged by figuring how much that tax would mean if claimed by all the provinces. Of course, the Banks and the other provinces may not agree with the Social Credit view and may consider that taxing banks, even if the tax is paid by cheque, costs the banks the amount of the tax, but that is immaterial. The purpose of the bill must be judged by the intent of the legislative assembly which passed it. It has been made evident by the examination of the main Social Credit measure set out in para. 14 of this factum, that the Social Credit Plan essentially contemplates accumulation by the Alberta Credit House of a substantial amount of legal tender, or, as Major Douglas termed it in "the preliminary steps" set out in his first interim report, " 'Foreign exchange,' i.e., effective demand not subject to attack as being  
 20 recognizable as having been created within the province," in order to enable the province to meet extra-provincial trade debits where creditors require these to be paid in Canadian currency. If the Bill is to be considered for this and other reasons as being intended to perfect the Social Credit Plan, the point has already been developed that it is, on that account, unconstitutional, as the adoption of the plan itself is beyond the powers of the provincial legislature. If it is not taxation, but merely utilizing the banks' power to manufacture money for the Province, it is equally *ultra vires*. If it is prohibitive, it is also *ultra vires*.

It is further suggested that the tax, if a real tax for the amount, is indirect. Such a tax is not to be compared with the tax under consideration in the case of *Bank of*  
 30 *Toronto v. Lambe* (1887) 12 A.C. 575. Inevitably the \$25,000,000, referred to in the hypothetical case above, would have to be transferred by the banks, by a very direct and not circuitous route, to the customer, and this applies equally to the two million dollar tax considered alone. The bulk of it would be passed on to the customers of the banks and largely to customers in other provinces.

As supporting the view that this is not intended as a tax, there is the fact that one cannot easily presume that a great legislature would impose a tax that is clearly ruinous and discriminatory as against the other provinces. In the view that the fundamental principle of Social Credit is sound, which is undoubtedly the view of



the Alberta Legislature, no such bad faith can be imputed to the Legislature. It is merely asking the banks to manufacture, without cost, money for the benefit of the government.

25. **Bill No. 9, "An Act to Ensure the Publication of Accurate News and Information," taken by itself, is *ultra vires*.**—It has already been submitted in a preceding part of this Factum that this Bill is *ultra vires* of the Legislature of Alberta by reason of its being a part of a larger indivisible scheme which is itself beyond the power of the Legislature.

10 It is now submitted that this Bill, isolated from the other legislation and considered alone, transcends the powers of the Provincial Legislature,—

(a) because it is legislation in relation to a matter not coming within the class of subjects by the British North America Act exclusively assigned to the Legislatures of the Provinces, and is, therefore, within the legislative jurisdiction of the Dominion Parliament;

(b) because it is legislation in relation to criminal law, and

(c) because it is legislation in relation to undertakings connecting the province with others of the provinces or extending beyond the limits of the Province.

The provisions of this Bill have already been outlined in para. 6 above.

20 *The Bill is a Bill relating to the peace, order and good government of Canada:* It is submitted that the provisions of this Bill are, in pith and substance, provisions relating to the peace, order and good government of Canada within the scope of the residuary power of the Parliament of Canada because it deals with a matter, namely, the freedom of the Press, which is, in substance, not local or provincial but is unquestionably a matter of national concern and importance affecting the body politic of the Dominion.

The only heads of provincial legislative jurisdiction under which the provisions of this Bill can possibly be justified are heads 13 and 16 of sec. 92 of the British North America Act, namely,

30 "Property and Civil Rights in the Province" and  
"Generally all Matters of a merely local or private Nature in the Province."

The provisions of the Bill cannot, it is submitted, be justified under either of these heads. The leading object of this Bill is disclosed in the preamble in the following terms,—

"Whereas it is expedient and in the public interest that the newspapers published in the Province should furnish to the people of the Province statements made by the authority of the Government of the Province as to the true

and exact objects of the policy of the Government and as to the hindrances to or difficulties in achieving such objects, to the end that the people may be informed with respect thereto." Case, p. 15, ls. 22-26.

To this end the Bill makes substantive provision for requiring any newspaper published in the province to publish, on the requisition of the Chairman of the Social Credit Board, any statement furnished by him, which has for its object "the correction and amplification of any statement relating to any policy or activity of the Government of the Province." This means, and can only mean, the present Social Credit Government of Alberta: first, because the Chairman of the Social  
 10 Credit Board, to whom the administration of the measure is confided, is an official who has no duties other than those connected with Social Credit; and secondly, the Bill would cease to have content and become inoperative in the event that the Social Credit Government should be succeeded by a new administration of different political and economic views.

If restrictions of this character on the freedom of the press can lawfully be imposed by a provincial legislature, there is no reason to doubt the capacity of the legislature to carry the exercise of its power to greater lengths: even to the extent of entirely prostrating the press into an instrumentality of political or economic propaganda. Are there to be restrictions, and if so, what restrictions of the rights of  
 20 a publisher of a newspaper to gather information and to publish the same, subject, of course, to the consequences of the law or to refuse to publish what he does not wish to publish? The authority that can impose some restriction on the freedom of the press, a freedom which is in the legal sense now complete, can impose any restriction. The issue raised by this Bill is, therefore, nothing less than the great issue of the right to restrict and to regulate the freedom of the press. The policies and activities of any provincial government, whether it be a Social Credit or any other kind of government, are, it is submitted, not, as such, matters of property and civil rights in the province, nor, by a parity of reasoning, matters of a merely  
 30 local or private nature in the province. Such policies and activities are matters of concern to the whole of Canada, to the people not merely of Alberta but of every other province; and more especially must this be the case when it appears, as it does in this instance abundantly appear, that the policies and activities of the Provincial Government are all centered upon the attainment of an illegal object, namely, the establishment of a new economic order in the province based on the principles or plan of the Social Credit theory. If the Government for the time being in power in any province has the authority to dictate what the public will learn through the newspapers, the public's ability to judge, influence and, possibly, dismiss that Government will be destroyed or at any rate seriously impaired. The Central

Government, the Central Parliament, and the people of every part of Canada, have also an interest in this matter. They are interested in knowing what is happening in any Province for the purpose of remedying evils which may arise there, or of supporting or combatting theories of government there advanced. They are also interested in reaching through the medium of the press the public of every province for the purpose of supporting or resisting views or theories on any matter that may be the subject of Dominion legislation. In short, all Canada must know what is happening in a province and must be able to make itself heard, through the medium of the press, by the people of that province. Especially is this so in the

10 case of a country like Canada where the population is, for the most part, thinly diffused over a vast extent of territory: in these circumstances, the press has a powerful agency for the dissemination of news and information, and, in consequence, its freedom to fulfil this important service ~~is~~ <sup>are</sup> of vital importance to the preservation of the peace, order and good government of the nation. More than that the security of the nation, <sup>it is</sup> ~~its~~ capacity to present a united front in time of emergency may well depend upon it. The press service should, therefore, be free, or controlled if at all, only by the central authority.

The object of the British North America Act, 1867, as declared in the preamble, was to give the newly-formed Dominion "a constitution similar in principle to

20 that of the United Kingdom"—"a canon involving," as Duff, J. said in the Persons Reference (1928) S.C.R. 276, 291, 292,

"the acceptance of the doctrine of parliamentary supremacy in two senses, first that Parliament and the Legislatures, unlike the Legislatures and Congress in the U.S., were, subject to the limitations necessarily imposed by the division of powers between the local and central authorities, to possess, within their several spheres, full jurisdiction, free from control by the courts; and second, in the sense of parliamentary control over the executive, or executive responsibility to Parliament. In pursuance of this design, Parliament and the local legislatures were severally invested with legislative jurisdiction over defined

30 subjects which, with limited exceptions, embrace the whole field of legislative activity.

More specifically, the legislative authority of Parliament extends over all matters concerning the peace, order and good government of Canada; and it may with confidence be affirmed that, excepting such matters as are assigned to the provinces, and such as are definitively dealt with by the Act itself, and subject, moreover, to an exception of undefined scope having relation to the

sovereign, legislative authority throughout its whole range is committed to Parliament. As regards the executive, the declaration in the preamble already referred to, involves, as I have said, as a principle of the system, the responsibility of the executive to Parliament.”

All history teaches and all experience shows that if the democratic institutions, which it was thus the cardinal object of the British North America Act to establish in Canada, are to be maintained and are to continue to function and to fulfil their great purposes, the freedom of the press, one of the great corner stones of these institutions—operating only under such restraints as are imposed by the common law  
 10 rules which were in force when the constitution was established and in reference to which it was adopted—is indispensable to secure that end. English constitutional history in relation to this topic abundantly justifies this submission. This history, relating to what an eminent author describes as “The greatest of our liberties—liberty of opinion” is fully narrated in May’s Constitutional History of England (1912) (edited and continued by Mr. Francis Holland) Vol. 2, pp. 1-123. It is very briefly summarized in Blackstone’s Comm. Book IV, p. 152, Note (a) as follows:

“The art of printing, soon after its introduction, was looked upon (as well in England as in other countries) as merely a matter of state, and subject to the coercion of the Crown. It was therefore regulated with us by the King’s  
 20 proclamations, prohibitions, charters of privileges and of licence, and finally by the decrees of the court of starchamber, which limited the number of printers and of presses which each should employ, and prohibited new publications, unless previously approved by proper licensers. On the demolition of this odious jurisdiction, in 1641, the long parliament of Charles I., after their rupture with that prince, assumed the same powers as the starchamber exercised with respect to the licensing of books, and in 1643, 1647, 1649 and 1652 (Scobell, i. 44, 134; ii. 88, 230) issued their ordinances for that purpose, founded principally on the starchamber decree of 1637. In 1662 was passed the statute 13 and 14 Char. II, c. 33, which (with some few alterations) was copied from the  
 30 parliamentary ordinances. This act expired in 1679, but was revived by statute 1 Jac. II. c. 17, and continued till 1692. It was then continued for two years longer by statute 4 W. and M. c. 24; but though frequent attempts were made by the government to revive it, in the subsequent part of the reign, (Com. Jour. 11 Feb. 1694, 26 Nov. 1695, 22 Oct. 1696, 9 Feb. 1694, 31 Jan. 1698), yet the parliament resisted it so strongly that it finally expired; and the press became properly free in 1694, and has ever since so continued.”

The liberty of the Press, as thus established, has been judicially defined.

“The liberty of the press,” said Lord Mansfield in *R. v. Dean of St. Asaph* (1778) 3 T. R. at p. 431, “consists in printing without any previous licence, subject to the consequences of the law.”

Lord Ellenborough said in *R. v. Cobbett* (1804), 29 Howell’s St. Tr. at p. 49:

“The law of England is a law of liberty and consistently with this liberty we have not what is called an *imprimatur*; there is no such preliminary licence necessary; but if a man publish a paper he is exposed to the penal consequences, as he is in every other act, if it be illegal.”

Lord Kenyon shortly defined the liberty of the press in *R. v. Cuthell*,  
10 27 Howell’s St. Tr. at p. 675:

“A man may publish anything which twelve of his countrymen think is not blamable.”

Of the vital and essential importance of the freedom of the press, in relation to the maintenance of democratic institutions, the great commentator Blackstone, in his commentaries on the laws of England, Book IV, pp. 151-153, says:

20 “The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no *previous* restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. To subject the press to the restrictive power of a licenser, as was formerly done, both before and since the revolution, is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government. But to punish (as the law does at present) any dangerous or offensive writings, which, when published, shall on a fair and impartial trial be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of government and religion, the only solid foundations of civil liberty.

30 Thus the will of individuals is still left free; the abuse only of that free will is the object of legal punishment. Neither is any restraint hereby laid upon freedom of thought or inquiry; liberty of private sentiment is still left; the disseminating or making public of bad sentiments, destructive of the ends of society, is the crime which society corrects. A man (says a fine writer on this subject) may be allowed to keep poisons in his closet, but not publicly vend them as cordials. And to this we may add that the only plausible argument

heretofore used for the restraining the just freedom of the press, 'that it was necessary, to prevent the daily abuse of it,' will entirely lose its force when it is shown (by a seasonable exertion of the laws) that the press cannot be abused to any bad purpose without incurring a suitable punishment; whereas it never can be used to any good one when under the control of an inspector. So true it will be found that to censure the licentiousness is to maintain the liberty of the press."

In the same sense, Story on the Constitution, 4th Ed. Vol. 2, pp. 616-617, says:

20 " . . . . . No one can doubt the importance, in a free government, of a right to canvass the acts of public men and the tendency of public measures, to censure boldly the conduct of rulers, and to scrutinize closely the policy and plans of the government. This is the great security of a free government. If we would preserve it, public opinion must be enlightened; political vigilance must be inculcated; free, but not licentious discussion, must be encouraged. But the exercise of a right is essentially different from an abuse of it. The one is no legitimate inference from the other. Common sense here promulgates the broad doctrine, *sic utere tuo, ut non alienum loedas*; so exercise your own freedom as not to infringe the rights of others, or the public peace and safety."

20 Likewise, "The liberty of the press," said Junius, "is the palladium of all the civil, political and religious rights of an Englishman, and the right of juries to return a general verdict in all cases whatsoever is an essential part of our constitution."

Dicey, in his Law of the Constitution, 8th Ed., at p. 259, states:

"The refusal of the English Parliament in 1695 to renew the Licence Act did permanently establish the freedom of the press in England,"

and he points out (pp. 199-200) that his discussion of the right to personal freedom, the right of freedom of discussion, and other leading heads of constitutional law, is simply directed to show that these "articles," so to speak, of the constitution, are both governed by and afford illustrations of the supremacy throughout English 30 institutions of the law of the land—i.e. the "rule" or "supremacy" of law.

The imposition of restraints upon the liberty of the press in the fashion proposed by the provisions of Bill 9 is, it is submitted, a matter which transcends provincial legislative authority and affects Canada as an entirety. Hence, the only power competent to deal with such a matter is to be found in that part of the constitution which establishes power in the state as a whole, and for the expression and influence of its public opinion as such, namely, the general or residuary power of the Parliament of Canada to make laws for the peace, order and good government of Canada.

*Bill No. 9 is a Bill relating to the Criminal Law:* The mischief for which this Bill was obviously intended to provide a remedy was the publication in the newspapers of Alberta of any statements relating to any policy or activity of the Government of the Province deemed, by the Chairman of the Social Credit Board (and of this matter he is made the sole judge), to be incorrect or inadequate. The remedy provided resides in the power vested in this official, (a) to require any newspaper publishing any such statement to publish, free of charge, any statement to be furnished by him, correcting or amplifying the statement complained of and giving to the statement so furnished the same prominence as to position, type and space; and  
 10 (b) to require any newspaper to make a return in writing setting out any source from which any information emanated as to any statement contained in any issue of the newspaper published within the previous sixty days, and the names, addresses and occupations of all persons by whom such information was furnished to the newspaper. The enforcement of the requirements of the Chairman of the Social Credit Board is secured, not only by pecuniary penalties, but by a still more drastic power, the power vested in the Lieutenant-Governor in Council, on the recommendation of the Chairman of the Social Credit Board, to prohibit by order (a) the publication of such newspaper either for a definite time or until further order; or (b) the publication in any newspaper of anything written by any person specified in the  
 20 order; or (c) the publication of any information emanating from any person or source specified in the order.

It is, therefore, obvious that the central purpose of this Bill, its pith and substance, is to regulate the press of Alberta from the viewpoint of public policy—of preventing the public from being misled or deceived as to any policy or activity of the Social Credit Government, and, by this means, of allaying public opposition to, and of gaining public support for, its policies and measures, and this end is to be secured under penal sanctions and methods of suppression reminiscent of the odious jurisdiction of the starchamber. It is submitted, therefore, that this Bill deals with the regulation of the press of Alberta, not from the viewpoint of private wrongs or  
 30 civil injuries resulting from any alleged infringement or privation of civil rights which belong to individuals, considered merely as individuals, but from the viewpoint of public wrongs or crimes, i.e., involving a violation of the public rights and duties due to the whole community, considered as a community, in its social aggregate capacity. It is, therefore, submitted that the provisions of this Bill are an invasion of the domain of criminal law and trench upon the exclusive legislative jurisdiction of the Dominion in relation to that topic.

When the Licensing Act expired at the close of King Charles II's reign (1694) twelve judges were assembled by the King's command to discover whether the press might not be as effectually restrained by the common law as it had been by that

statute; and these judges, under Chief Justice Scroggs, declared it to be criminal at common law not only to write public seditious papers and false news, but likewise to publish any news, whether true or false, without a licence from the King: Harris' Case (1680) 7 St. Tr. 929; and Carr's Case, 7 St. Tr. 1111. Nor was this monstrous opinion judicially condemned until the decision of Lord Camden, C.J. in *Entick v. Carrington* (1765) 19 St. Tr. 1030. Nevertheless, it is said to be a misdemeanor at common law to fabricate and publish false news likely to produce any public detriment: Russell on Crimes, 9th Ed. Vol. 2, p. 1077; Ogders on Libel and Slander, 6th Ed. pp. 371, 372.

- 10 There are old cases which appear to go further and to decide that any publication tending to beget an ill opinion of the government is a criminal libel. In *R. v. Tutchin* (1704) 14 Howell's St. Tr. at p. 1128, Holt, C.J. said that "If people should not be called to account for possessing the people with an ill opinion of the government, no government can subsist: for it is very necessary for all governments that the people should have a good opinion of it, and nothing can be worse to any government than to endeavour to procure animosities as to the management of it; that has always been looked upon as a crime and no government can be safe without it be punished." Lord Ellenborough, C.J., expressly following this decision, told the jury in *R. v. Cobbett* (1804) 29 Howell's St. Tr. p. 49, "It is no new doctrine that if a
- 20 publication be calculated to alienate the affections of the people by bringing the government into disesteem, whether the expedient be by ridicule or obloquy . . . it is a crime." However, such a doctrine, if strictly enforced, would destroy all liberty of the press, and is, moreover, in conflict with more recent dicta referred to in Ogders on Libel and slander, 6th ed., pp. 419-420.

But the real gravamen of this common law offence has been preserved by sec. 136 of the Criminal Code, which provides:

"Every one is guilty of an indictable offence and liable to one year's imprisonment who wilfully and knowingly publishes any false news or tale whereby injury or mischief is or is likely to be occasioned to any public interest."

- 30 While this enactment is rarely invoked, it was invoked in one Canadian case, namely, *Rex v. Hoaglin* (1907) 12 Can. Cr. Cs. 226 (Alta.) where it was decided that the publication of a placard stating that settlers from the United States were not wanted in Canada was an injury to the public interest, and that the person wilfully and knowingly publishing such false statement, was guilty, under said sec. 136, of spreading false news.

*Bill No. 9 is a Bill relating to a Dominion Undertaking:* By the combined operation of sec. 91 (29) and of sec. 92 (10 (a)) of the British North America Act, 1867, the exclusive legislative authority of the Dominion Parliament extends to



“undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province.” “‘Undertaking,’” in the constitutional sense of the terms, “is” said the Judicial Committee (speaking by Lord Dunedin in the Radio Reference (1930) A.C. 304, 315) “not a physical thing, but is an arrangement under which, of course, physical things are used,” and the Board stated that they had no doubt that “the undertaking of broadcasting is an undertaking ‘connecting the province with other provinces and extending beyond the limits of the province.’”

All agencies or mediums of interprovincial or extraprovincial communication—  
 10 the postal service, telegraphs and telephones, radio broadcasting, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province—are, by the British North America Act, placed under the exclusive legislative jurisdiction of the Dominion Parliament. Allied to these as a medium for the communication of news and information and sharing their pervasive qualities and influence, is the press. Newspapers, viewed in this light, are closely analogous to radio broadcasting. There is about the printed word, once released, a fugitive characteristic which it shares with the spoken word transmitted by radio broadcasting. It is a fact of general public notoriety that the newspapers of Alberta circulate not merely within the province but throughout  
 20 Canada. It is, therefore, submitted that the newspapers of Alberta, in common with newspapers published in other provinces, constitute an “undertakings” connecting the province with other provinces and extending beyond the limits of the province, and that the provisions of Bill No. 9, consequently, also trench upon the exclusive legislative jurisdiction of the Dominion Parliament in relation to this topic. It is further submitted that the provisions of the Bill are not severable so as to be restricted in their application only to such newspapers as do not circulate out of the Province. To restrict the Bill in that fashion would involve rewriting the Bill, and it is by no means certain that the legislature would have passed the Bill in the restricted form suggested. It is, therefore, submitted that the Bill as a whole is *ultra vires* of the  
 30 provincial legislature.

26. There are other statutes enumerated in the Order in Council of November 2, 1937 (Case, pp. 5, 6 and 7), which it is submitted are, with two possible exceptions, not material to the decision of the present Reference. The two statutes referred to are The Prosperity Certificates Act, chap. 4, 1936 (Second Session) (Case, pp. 63-67) and The Prosperity Certificates Act Amendment Act, chap. 83, 1937 (First

Session) (Case, p. 110). These statutes appear only indirectly to have any bearing upon the issues presented. The former involved the issue of paper money. The latter provided for the redemption of the paper money so issued.

27. For these reasons, and such other reasons as may be urged at the hearing of the argument of this Reference, it is submitted, on behalf of the Attorney-General of Canada, that each of the questions referred should be answered without qualification in the negative.

AIME GEOFFRION,  
J. BOYD McBRIDE,  
C. P. PLAXTON.

## APPENDIX TO FACTUM

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**Extracts from  
The British North America Act, 1867**

POWERS OF THE PARLIAMENT

Legislative  
Authority  
of  
Parliament  
of Canada.

“ 91. It shall be lawful for the Queen by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces, and for greater Certainty, but not so as to restrict the Generality of  
10 the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
- 20 7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
- 30 14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.

20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
- 10 28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

#### EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES

Subjects of  
exclusive  
Provincial  
Legislation.  
20 In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
- 30 5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
  - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
  - 10 (b) Lines of Steam Ships between the Province and any British or Foreign Country;
  - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
 

20
15. The Imposition of Punishment by Fine, Penalty. or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

## No. II

## Extract from

Report of the Royal Commission Appointed to Enquire into the  
 Monetary and Banking Systems of Australia, dated July 16,  
 1937, Published by Authority: L. F. Johnston,  
 Commonwealth Government Printer,  
 Canberra, Australia

The members of the Commission were:

- 10 The Honourable John Mellis Napier, a Judge of the Supreme Court of South  
 Australia;  
 Edwin Van-der-vord Nixon, Esquire, C.M.G.;  
 Professor Richard Charles Mills;  
 The Honourable Joseph Benedict Chifley;  
 Henry Arthur Pitt, Esquire, C.M.G., O.B.E., Director of Finance, Victorian State  
 Treasury; and  
 Joseph Palmer Abbott, Esquire.

## DOUGLAS SOCIAL CREDIT

*The Outline of the Theory*

20 In the first instance, we may set out the proposals which it is convenient to  
 group together as "Social Credit," or "the Douglas Social Credit movement." This  
 group covers a diversity of individual opinions, and it will be necessary to amplify  
 the outline later, but it appears that the common ground, or basic principles, can be  
 briefly stated as follows:—

- (a) the advocates point to the "paradox of poverty in the midst of plenty,"  
 and to the wastage and destruction of produce, and the restriction of pro-  
 duction, at times when many are in want;
- (b) they say that this state of affairs is due to a permanent tendency towards  
 a shortage of purchasing power—i.e., money in some form or other—and  
 that the community is therefore unable to buy all the consumable goods  
 30 produced;
- (c) they mean by this that the aggregate value, at retail prices, of all the con-  
 sumable goods and services put on the market, is always—or nearly always  
 —greater than the aggregate money income received by consumers (for

example, wages, dividends and interest) which is available to purchase the aggregate output. The A+B theorem is offered as a proof of these contentions;

- (d) they propose that this shortage should be met by government control of credit, and by either, or both, of the following methods:—
- (i) a national dividend in the form of a weekly or monthly payment to every individual in the community;
  - (ii) the sale of consumable goods at the “just price,” which is a price less than the cost, including a margin of profit. The sellers of such goods would then be compensated for the amount lost by them through selling at this reduced price;
- (e) the money or credit for national dividends and compensatory payments would be issued by a “National Credit Authority,” such as the Commonwealth Bank;
- (f) For the purpose of ascertaining the shortage of purchasing power in any period, a national accounting would be undertaken;
- (g) The shortage so ascertained would represent approximately the amount of credit or money that would be made available by the National Credit Authority, either in the form of a national dividend, or compensatory payments, or by both these methods.

#### *The Shortage of Purchasing Power*

The fundamental idea of social credit is that there is a permanent tendency towards a shortage of purchasing power, but the expression—shortage of purchasing power—can be used in different ways, and it is necessary to have a clear understanding of what is alleged. If purchasing power is used in the sense of money income, nobody denies that, at all times, there is some shortage of purchasing power, so far as particular individuals are concerned. There are always some people who never have enough money to buy what is necessary for a reasonable standard of living. It is quite clear, also, that in times of depression, the total purchasing power (or money income of the community) is less than in times of prosperity. In this sense, it may be said that there is a general shortage of purchasing power in a depression as compared with the amount available in other times. But it must be clearly understood that the social credit theory is not concerned with any shortage of money in either of these senses.

The social credit contention is that—save possibly in a period of boom or of exceptional export—the economic system, as a whole, does not, and never can,



distribute to individual consumers all the money which the producers have to spend in the course of production. In other words, it is alleged that—save possibly in these exceptional periods—the community, as a whole, never gets enough money, in the form of income, to buy all the commodities that are produced.

*The National Credit Account*

The first plank of the social credit platform is the “Government control of credit,” or—as some say—the “National control of money.” The advocates of social credit say that in the interests of the community, it is not desirable that banks, whose principal motive for existence is the making of profits, should have the power to  
 10 expand or contract credit—or as the Douglas Credit advocates put it—the power to create money in the form of a debt to the banking system, and to destroy it when repaid. This power, it is contended, should be in the hands of a national credit authority.

There seems to be some difference of opinion amongst these advocates as to how far this particular proposal should be carried. Some would prohibit any trading bank from making advances out of the money deposited with it. But this is not included in the proposal, as generally outlined in the writings to which we have been referred. In this form, the proposal is that the Commonwealth Bank, or some other authority, specially appointed for that purpose, should keep  
 20 a national credit account, as the measure of the credit or money available for issue.

This account would be “credited with the value of the community’s assets, both public and private, and with the commercialized value of the population.” This means that a valuation would be made of the capital assets of the country, e.g., land, roads, railways, waterworks, drainage, buildings, plant, and machinery. No distinction would be made between public and private property. Property would be taken at replacement value, if in use, or, if not in use, at market value. To this would be added a sum to represent “the commercialized value of the popu-  
 30 lation,” or, as we understand it, a capitalization of the earning capacity of every member of the community. On the other side of the account, we gather that there would be a debit for a sum representing the existing supply of money.

From time to time, for example, annually, the national credit account would be credited with amounts representing the value of the total national production, which includes—

- (a) capital goods and consumable goods produced, at cost including profit;
- (b) imports;

- (c) capital appreciation (the increase in value) of land, works, buildings, and the like, and debited with amounts representing the value of the total national consumption, which includes—
- (d) total national consumption;
- (e) exports;
- (f) capital depreciation of land, works, buildings and the like.

Any money issued from time to time would be debited to this account, and the credit balance would be regarded as a fund from which the national credit authority would issue credit or money for—

- 10 (i) “National dividends”; or
- (ii) payments to compensate the sellers of consumable goods for selling them at the “just price”;

and also (according to some advocates) for—

- (iii) the finance of national and semi-national undertakings, and social services;
- (iv) the reduction of the national debt;
- (v) the relief of taxation.

The extent of the issue for any of the last three purposes would be determined by the Government, or entrusted to the discretion of the national credit authority.

## 20 *The National Dividend*

The national dividend can be briefly explained. It involves the payment of some fixed sum to every member of the community, weekly, monthly, or quarterly as may be determined. These payments would be made by the national credit authority—presumably the Commonwealth Bank—in legal tender money, or by cheques or vouchers which could be cashed if required.

### *The Just Price Subsidy*

The “just price” subsidy requires more detailed treatment. The proposal is as follows:

- 30 (a) the advocates assume that the figures appearing in the national credit account as the “Total National Production” and “Total National Consumption,” when taken over any particular period, would show some substantial excess of production over consumption, and this would be regarded as the measure of the shortage of purchasing power to be made up by the “just price” subsidy, either alone, or in conjunction with some scheme of national dividend.

(b) Taking these figures as a guide, the Government or the national credit authority would then fix some percentage—say 25 per cent—by which the retail prices of consumable goods would have to be reduced below cost in order to qualify for the subsidy;

The cost referred to, is the cost to the retailer, plus a margin of profit, fixed or regulated by the proper authority;

(c) When the goods had been sold to the consumer at this reduced price, the retailer would, in due course, apply to the national credit authority for payment of the subsidy. Some system would have to be devised for checking the sales and verifying compliance with the conditions—i.e., that the price had been reduced and the fixed margin of profit not exceeded;

(d) When the national credit authority was satisfied on these points, it would pay to the retailer as subsidy the difference between his “cost” price and the price at which the goods had been sold;

(e) the payment would be made by a cheque or order, which might be cashed or credited through the banking system.

There has been some hesitation, upon the part of some of the social credit advocates, in regarding these payments as money; but it is clear from the evidence of Major Douglas before the Macmillan committee that he regards them as money.

20

### *Shortage of Purchasing Power Examined*

Having set out the proposals, we can now proceed to examine the arguments in support of the theory that there is a permanent tendency towards a shortage of purchasing power. No statistics exist which, in our opinion, serve to establish the truth of their theory. We invited the advocates, who appeared before us, to provide us with such statistics, but they were unable to do so.

### *The A + B Theorem*

The ordinary view is that whatever is paid out by the producer as the costs of production must sooner or later be paid to some one who receives it as income, which he can spend, if he so desires, on consumable goods.

30 Major Douglas, the founder of this school of thought, contests this view, and purports, by what is known as the A + B theorem, to demonstrate that there is a permanent tendency towards a shortage of purchasing power. His statement is as follows: —

“A factory or other productive organization has, besides its economic function as a producer of goods, a financial aspect—it may be regarded on the

one hand as a device for the distribution of purchasing power to individuals, through the media of wages, salaries, and dividends; and on the other hand, as a manufactory of prices—financial values. From this standpoint, its payments may be divided into two groups—

Group A.—All payments made to individuals (wages, salaries, and dividends).

Group B.—All payments made to other organizations (raw materials, bank charges, and other external costs).

Now, the rate of flow of purchasing power to individuals is represented by “A,” but since all payments go into prices, the rate of flow of prices cannot be less than “A” plus “B.” Since “A” will not purchase “A” plus “B,” a proportion of the product at least equivalent to “B” must be distributed by a form of purchasing power which is not comprised in the description grouped under “A.”

### No. III

#### Extract from

**Encyclopaedia of the Social Sciences (New York), Volume 8, 1932**

*(Edwin R. A. Seligman, Editor-in-Chief; Alvin Johnson, Associate Editor)*

p. 642

20 “Perhaps the most interesting of these proposals is that advanced by Major C. H. Douglas, a Scottish engineer. Douglas contends that at present the economic organism is dominated by bankers, who have succeeded in usurping the privilege of creating purchasing power and therefore of making prices. According to Douglas every new productive process means the creation by the banks of more purchasing power, which after a time they must somehow retrieve and cancel. This can be done only if the prices of finished goods are raised high enough to absorb, when sold to ultimate consumers, the entire amount of purchasing power created by the banks, even though a part of it has been used to finance the manufacture of intermediate goods, not transferred to consumers. For this reason manufacturers are driven to raise prices by every means possible—by reducing production of consumers’ goods at the expense of producers’ goods, by expanding exports and by forming monopolistic combinations. This system of financial accounting, which is out of accord with the real situation, can be dispensed with only if prices are regulated so as to allow for the retention in the hands of the community of an amount

30

of purchasing power corresponding to the increase in real capital. Prices must be set at a fraction of costs as calculated by the manufacturer, a fraction corresponding to the ratio of the cost value of total consumption (including capital depreciation and exports) to the money value of total production (including capital appreciation and imports). To reimburse the manufacturer, who will thus have to sell below cost, a national authority must create a sufficient amount of new purchasing power to balance the accretions to real capital. The essential condition for the execution of this reform is the restoration to the community of the banking function; that is, the ability to create financial evidences of/purchasing power. In each industry a bank owned by organized labour should be established through which the employers will disburse wages, salaries and dividends and the government credit the manufacturers with the difference between cost and prices. Once this is accomplished, the artificial limitation of production of consumers' goods will be relaxed, industrial efficiency will approach in practice its theoretical limits and production in general will be oriented in the interests of the consumer. The Douglas scheme of social credit, which is supported in England by the London weekly *New Age*, has attracted attention in recent years also in the United States but is practically unknown on the continent."

p. 643

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## No. IV

**First Interim Report on the Possibilities of the Application of  
Social Credit Principles to the Province of Alberta**

*Submitted to His Majesty's Premier and Legislative Council of Alberta, at Edmonton, Alberta, May 23, 1935 by Major C. H. Douglas, together with Correspondence which followed the Report, between Premier R. G. Reid and Major Douglas, and between Hon. J. F. Lymburn, Attorney-General, and Major Douglas.*

## PREAMBLE

In order to provide an understandable background for this Report, it seems necessary to recall certain general considerations.

30

Stripped of unnecessary complications, a community such as the Province of Alberta, with a governing body entrusted with certain powers, may be considered as an association of individuals to obtain conditions of life, both social and economic, which could not be obtained without organization. It is not only an association for the purpose of working effectively, but also an association to enable the eventual objective of the work to be realized in enjoyment.

The essential wealth of such a community, looked at from its productive side, consists in its physical assets, either in the state in which they are found in nature, or as improved by the application of labour, and in particular, modern industrial methods; and even more importantly in its vital assets, represented by its population and their state of education, intelligence, morals, health and social well being. That is to say "wealth" is not "money."

It is a matter of universal experience, however, that none of these forms of real wealth, enumerated above, can come into the possession and control of the individual without the use of this device, commonly called money, but which is  
10 more comprehensively defined, and in fact more easily understood, by its technical term "effective demand."

Effective demand originated in the barter system, that is to say individuals parted with a surplus of real wealth in their possession to obtain in exchange real wealth of a different variety for which they had a need. The barter system became modified when the idea of a third factor, erroneously considered as the embodiment of wealth, for instance gold and silver, came into use as the common method of exchanging real or useful wealth. The fact that gold and silver are themselves commodities, having certain uses, for ornament or otherwise, no doubt served to intensify this idea. The great increase of wealth of a genuinely useful kind, as  
20 compared with the symbols of wealth supplied by the precious metals, forced the introduction of other forms of symbolic wealth, still carrying with them the barter conception, but being in fact merely claims on wealth of the same nature that a railway ticket is a claim upon transportation, while having no value in itself, a condition of affairs which exists at the present time in relation to the specific form of ticket that we term a dollar bill.

In the modern world, however, the preponderating feature in effective demand which is universally employed to carry on the world's business is what is technically called a "credit instrument," of which there are several forms. For the purposes of this preamble it is only necessary to consider the cheque.

30 The cheque is essentially a draft upon an allotment of the public credit, by which is meant the well founded belief that certain quantities of real wealth, having price figures attached to them, corresponding to the amount of the cheque, and produced by unspecified members of the public, will be delivered in return for the cheque, and a cheque is therefore, so far as it is accepted as money, a form, and the most common form, of effective demand.

While it is clear that under a barter system there is always sufficient effective demand although it may be inequitably distributed, under a money or cheque system both inequitable and ineffective demand are certain unless production and demand are consciously and systematically related.

Cheques are drawn upon deposits, and it is admitted by all responsible authorities that deposits are created, to a major extent, by purely book-keeping transactions on the part of banking institutions. It is therefore correct to say that banking institutions are in a position to create, claim as their property, and to lend upon their own terms, effective demand which is the only method by which real wealth produced by the general public can be transferred from the producer of it to the user. The question as to the legal right of banking institutions to claim effective demand of public property, thus created, as their own exclusive property, and to lay down the terms upon which it shall be issued and the conditions under which it must be repaid, together with the price which shall be paid for the temporary use of it, will be examined in the main body of this Interim Report. At the moment it is sufficient to emphasize that the whole economic structure, the security of the individual, his social environment, his level of education, and to a large extent the conditions of his physical, mental and moral development, are controlled by the provision or withholding of this effective demand which is in essence merely a book-keeping process.

While it is probably true to say that, as at present conducted, the art of banking consists essentially in "fooling some of the people all of the time, and all of the people some of the time," it would be a mistake to overlook the fact which must proceed from the obvious importance of finance, that the conditions of material progress and the possibilities of a continuing and improving standard of living have been and are being achieved within the framework of the financial system. While it is generally agreed that this is so, it is not widely understood that modifications are essential to enable these processes to be continued. Without going too far into this aspect of the matter, it may be said that the financial system in its orthodox form has worked fairly successfully during an age of expansion in which preponderatingly large quantities of capital goods, not intended to be directly by individuals, have been produced, and the purchasing power or effective demand which has been distributed to individuals as an inducement to produce other capital goods has been available to them as effective demand for a sufficient quantity of consumable goods. Since this process of expansion is beyond question proceeding at a much slower rate, while the debts which have been contracted in regard to previous expansion are becoming increasingly onerous, sufficient purchasing power for the use of the general population does not become available through orthodox methods, and if it did, by excessive concentration upon capital production or Public Works, the breakdown of the system owing to intolerable debt charges would only be accentuated.

In regard to the Province of Alberta, therefore, it appears to me to be evident that little which is effective can be done to relieve the economic difficulties

which exist unless a departure is made from methods which were moderately effective in the past but are no longer suitable to conditions which have changed fundamentally. Any attempt to deal with the situation, which does not recognize its fundamental cause, must discredit the Administration and eventually result either in an abolition of organized forms of government in favour of a pure financial hegemony, or in a continuous disintegration of social morale, possibly ending in something approaching anarchy. Both Europe and America, under the Bank of England and the Federal Reserve System respectively, have been subjected to almost a complete financial hegemony for the past fifteen years, with results which  
10 are evident.

If this aspect of the matter were that alone requiring consideration, it does not appear probable that any government could hesitate in immediately instituting modifications designed to rectify the situation. Unfortunately, however, this monopoly of the creation of effective demand, which has been allowed to pass for the most part into the hands of the banking system, from its very nature constitutes a formidable power, having objectives of its own not those of the general population, and it is therefore entirely proper that the consequences of challenging its interests should be examined.

#### THE NATURE OF THE PRELIMINARY INQUIRY

20 1. At the outset, it must again be emphasized that a distinction should be drawn between any particular plan for the utilization of the public credit, when control of it has been acquired, and a strategy for acquiring the power to deal with the public credit. If this distinction be understood, it will be realized that plans for dealing with the public credit are wholly premature, while the power to deal with it has not been attained. For this reason I propose to confine myself in this preliminary report to possible methods and strategy in regard to the preliminary objective, that of obtaining access to the public credit.

2. It does not require much consideration to realize that it is not very probable that an effective strategy can be pursued to a successful conclusion with the  
30 whole hearted co-operation of those operating a financial system which already possesses the monopoly of credit, with all the powers and privileges which that situation implies. To put the matter concretely, every step in this direction will be opposed, and must inevitably be opposed by, e.g., the Bank of Canada, acting for the International Bankers. It is not so certain that, under the changed conditions, the same remark applies wholly to the Chartered Banks, as, for instance, in Great Britain, a sharp cleavage is developing between the Joint Stock Banks and the Bank of England. It is perhaps, however, safer to assume that the banking system of Canada would unite against any steps in this direction.



3. The first consideration which arises is as to the legality of the claim of the banking system to public credit, taking the law as it stands. It is obviously a consideration secondary to this, to consider what sanctions, due to the power of public resentment against an usurped and anti-social claim, could be raised, even though this claim had become legalized. In regard to the first question, in the Province of Alberta the matter is by no means clear. The power of printing legal tender money, or that which passes as money, undoubtedly belongs to the Dominion, and has now been delegated to the Bank of Canada. But it cannot be contended that this disposes of the question, since, if it did, banks would be  
 10 prohibited from issuing cheques, which quite unquestionably pass as money, and are not Dominion or Bank of Canada documents.

Further than this, matters of property and Civil Rights are the exclusive domain of the Provincial Government, and it is difficult to contend that it is not a Civil Right for an individual to write an order upon himself calling for the delivery of a portion of his property. Such an order is effective demand. Further than this, the Provinces are specifically granted the right to raise loans upon the sole credit of the Province. Such loans are raised in money or credit instruments, and have to be repaid in money or credit instruments, and the interest upon them has to be paid by credit instruments. Therefore, if it be contended that the  
 20 Provinces have no power to issue credit instruments, the phrase "the sole credit of the Province" has no financial meaning, although it may have a realistic meaning.

In this connection, I should like to acknowledge the valuable assistance of Mr. Gray of the Attorney-General's Department, and the brief kindly submitted to me by Mr. Herbert C. Boyd, M.A., LL.B., of Edgerton, Alta., both of which informations so far as they go, seem to confirm my own view of the position.

4. It would therefore seem that there is room for considerable action on the part of the Province without placing the Province in danger of the invocation of legal sanctions against it, by the banking system, acting on the premise that it  
 30 has sustained a tort. The second obvious sanction (and one not contained in the legal system) to be considered is the effect which might be produced by a refusal of financial facilities from the existing financial system, together with an attack of a psychological nature upon the action of the Province.

5. It is clear, and all experience confirms this view, that if credit instruments can be issued under the sanction of the constituted legal authority (in this case the Province), no difficulty arises in obtaining their universal acceptance within the range of the jurisdiction of the governing body. This has been success-

fully demonstrated beyond question in many instances and under the most unfavourable conditions, during the past twenty years. In Great Britain in 1914 the whole population was accustomed to handling actual gold coins, and, in fact, strongly disliked the only existing paper money, the Bank of England note. Within a week of the outbreak of war a complete change from gold metallic currency to a paper currency was instituted without visible shock, in spite of the well known existence of enemy *agents-provocateurs*, using all possible efforts to destroy confidence in the new money. Under conditions which could never be paralleled in this country, and after calculated inflation never before known in history, one series  
 10 of paper Marks after another has been accepted and has functioned in Germany with no tangible backing other than the mere declaration that it was legal tender. No difficulty might be expected, therefore, if certain cheques were made legal tender.

6. A difficulty does arise, however, where a considerable portion of the commodities required have to be imported from outside the credit area over which the Government has jurisdiction, and it is essential for the practical solution of this that a considerable amount of what may be considered as foreign currency or credit should be accumulated. I have given considerable attention to this aspect of the matter, and I do not believe that it is insuperable in regard to  
 20 Alberta, more particularly since the fear of repudiation has raised in the mind of the external bondholder a recognition that his debtor has claims upon his consideration, particularly if no suggestion of fundamental repudiation is contemplated.

7. The sanction therefore than can be applied to penalize action against the existing monopoly of credit, so far as Alberta is concerned, do not appear to be legal, and do not appear to extend so far as to render an internal credit system unworkable. They appear to be more formidable in connection with the exchange problem which is raised as between Alberta production and imports to be exchanged for the surplus of it, but even so they are not novel, and methods for dealing with them have been successfully applied both in Russia and Germany.

8. On the other hand, it is important to realize that the sanctions are not  
 30 wholly upon one side. To use the vernacular, the whole world is becoming "money conscious." While revolt against financial mismanagement appears to be for the moment more vocal in the Western Provinces of Canada, it is by no means non-existent in the East. It has grown rapidly, and is powerfully represented in the Senate and Congress of the United States, and is becoming a popular movement on the Pacific Coast. It is highly probable that the next Government of New Zealand will be committed to some form of Social Credit, and in the State

Governments of Australia, as distinguished from the Federal Government, its power is growing so rapidly that it is not easy to state the present position. There is much discussion of the subject in South Africa. In Great Britain the position is probably even more important, though less apparent to casual observation, in view of the closely-knit Press organization and the monopoly of broadcasting, which is intimately associated with the Bank of England.

9. The practical importance of this in regard to Alberta is that vindictive action by the financial authorities could be pilloried through the agency of Press and broadcasting to an audience which is already sufficiently instructed all over the world to grasp the questions that are at stake, and has a pronounced bias against the banking system as it exists at the present time.

10. Further, sanctions, which do not contemplate essential repudiation, exist in the external debt of the Province, and in the circumstance that the producing organizations external to Alberta are just as anxious to receive orders upon any terms which will enable them to meet their financial commitments as Alberta could be to receive their product.

11. It may not be out of place to comment at this point upon the rise of the idea of secession. In this connection it should be noticed that disintegrating influences are evident, not merely all over the British Empire, but in such countries as Spain, Southern Germany, and the Western States of America. In every case with which I am acquainted the disintegrating influence is financial and so far from a modified financial system tending towards a secessionist policy, any informed examination of the question seems to indicate that it is the existing financial system which is the seed-bed of disintegration, and that a modification of it, which, if successful, could not fail to spread with immense rapidity, would be the shortest method of disposing of such disintegrating influences. That, in fact, it is only insistence upon an ineffective financial system which raises the question of secession into the sphere of practical politics. The real secessionists, therefore, are those who insist upon an orthodox financial policy, regardless of its consequences to the population affected.

12. To summarize the position, therefore, the alternatives lie between a surrender to interests whose legal position is doubtful, and whose power, though admittedly great, is neither impregnable nor free from serious attack in quarters outside Alberta, on the one hand, and measures designed to free the Province from external financial control. The result of the former line of action can be judged from past experience, and in my opinion must involve failure to solve the

so called unemployment problem, a stationary or only very slowly increasing population in this Province, inability to develop the resources of the country, and political and social disintegration. Orthodox financial assistance would, however, be available, by the adoption of this policy, although accompanied by a rise in the public debt, and a continuous drain on individual financial resources through rising taxation. If this policy is adopted all experience tends to show that preparations for severely repressive measures, through increased police organization, are essential.

13. The consequences of the adoption of the second policy, if properly con-  
10 ducted, might mean temporary difficulties in regard to the import of articles not produced in the Province, a certain amount of political conflict with the Dominion Government, and a good deal of misrepresentation as to the actions and policies which accompanied this general attitude.

14. On the other hand, it would be possible, within a very short period of time, to minimize the unemployment problem in the Province, to increase the general standard of living of the whole population without decreasing that of any of its members, and to embark upon a systematic development of the resources of the Province on a scale otherwise unattainable.

15. In general, and without at the moment going into too much detail, the  
20 preliminary steps to be taken in this direction are, in my opinion:

(1) The systematic provision of a News circulation system under the unchallengeable control of the Province, particularly in regard to radio facilities of sufficient power to cover a wide geographical area.

(2) The organization of some Credit Institution, either under the Dominion Bank Act or otherwise, which will give access to the creation of effective demand through the credit system, on principles already well recognized and established.

(3) Systematic organization directed to the accumulation of what, for  
30 the purposes of this report, may be termed "foreign exchange," i.e., effective demand not subject to attack as being recognizable as having been created within the Province.

(Signed)

C. H. DOUGLAS,  
Chief Reconstruction Adviser to  
His Majesty's Government of Alberta.

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MEMORANDUM *re* LEGISLATIVE POWERS OF THE PROVINCE

*Submitted by W. S. Gray, Attorney General's Department, at Request of the Government for the Guidance of Major Douglas in Making His Report*

The following two questions have been submitted to me for an opinion:

1. What meaning is to be given to the words in Subsection 3 of Section 92 of the British North America Act as follows:

“The borrowing of money on the sole credit of the Province.”

I am not able to ascribe any meaning to the word “credit” in this subsection other than the ordinary, everyday meaning found in Murray's New English Dictionary of “trust or confidence in a person's ability and intention to pay at some future time.”

2. Is there anything which justifies the separation from the accepted meaning of property of the right to issue effective demands upon that property?

Involved in this question is the meaning to be given to the words “property and civil rights” contained in Subsection 13 of Section 92 of the said Act. It is quite difficult to give an opinion on the proper interpretation of any Subsection of Section 91 or Section 92 of the said Act without having something concrete to work upon.

20 This was pointed out by Viscount Haldane, Lord Chancellor, in *John Deere Plow Co., Ltd., vs. Wharton*, reported in 1915, A.C. p. 330. The Lord Chancellor said at p. 339:

30 “It must be borne in mind in construing the two sections that matters which in a special aspect and for a particular purpose may fall within one of them may in a different aspect and for a different purpose fall within the other. In such cases the nature and scope of the legislative attempt of the Dominion or the Province (as the case may be), have to be examined with reference to the actual facts if it is to be possible to determine under which set of powers it falls in substance and in reality. This may not be difficult to determine in actual and concrete cases. But it may well be impossible to give abstract answers to general questions as to the meaning of the words, or to lay down any interpretation based on their literal scope apart from their context.”

The words “property and civil rights” are very wide, and standing alone would, I think, include not merely property and civil rights as generally understood, but also the right to issue effective demands upon property.

In *Citizens Insurance Co. of Canada vs. Parsons*, 7 A.C. 96, the question involved was the validity of certain legislation passed by the Province of Quebec and dealing with insurance contracts and certain statutory conditions attached to such contracts. It was contended in that case that the words "property and civil rights" had a narrow meaning and that they would not extend to include contracts between individuals. This contention was not given effect to, however, and Sir Montague Smith, in giving opinion of the Privy Council, said at p. 111: "In this Statute the words 'property' and 'civil rights' are plainly used in their largest sense and there is no reason for holding that in the Statute under discussion they are used in a different and narrower  
10 one."

There can be no doubt, therefore, that the words, standing alone, would justify the answer—no—to question No. 2 above, and that the Province, *prima facie*, would have the right to legislate in the manner suggested by the question.

In the same case, however, Sir Montague Smith uses the following language at p. 109:

"The first question to be decided is, whether the Act impeached in the present appeals falls within any of the classes of subjects enumerated in section 92, and assigned exclusively to the legislatures of the provinces; for if it does not, it can be of no validity, and no other question would then arise. It is only  
20 when an Act of the provincial legislature *prima facie* falls within one of these classes of subjects that the further questions arise, viz., whether, notwithstanding this is so, the subject of the Act does not also fall within one of the enumerated classes of subjects in section 91, and whether the power of the provincial legislature is or is not thereby overborne."

Also, in the *John Deere Plow* case, Viscount Haldane stated at p. 340:

"The expression 'civil rights in the Province' is a very wide one, extending, if interpreted literally, to much of the field of the other heads of section 92 and also to much of the field of section 91. But the expression cannot be so interpreted, and it must be regarded as excluding cases expressly dealt with elsewhere  
30 in the two sections, notwithstanding the generality of the words."

The power, therefore, of the Province to legislate may be over-ridden by the power to the Dominion Parliament in section 91, such as:

14. Currency and coinage.
15. Banking, incorporation of banks and the issue of paper money.
20. Legal tender.

A good example of this is found in the case of *Tennant vs. Union Bank of Canada*, 1894, A.C. 31, in which it was held that the certain legislation contained

in the Bank Act was valid—notwithstanding that the exercise of the power interfered with property and civil rights in the Province and conferred upon a bank privilege as a lender which the Provincial law did not recognize.

I am not in a position to express any opinion as to whether the powers given to the Dominion Parliament under section 91 would over-ride the powers given to the Province with respect to property and civil rights, without having before me something concrete in the way of a draft of proposed legislation.

LETTER FROM MAJOR DOUGLAS TO PREMIER REID CONVEYING THE INTERIM REPORT

Macdonald Hotel,

10

Edmonton, Alta., Canada, 23rd May, 1935.

Dear Mr. Reid:

With this letter I am sending you the original and duplicate of my First Interim Report to your Government on the Possibilities of the application of Social Credit Principles to the Province of Alberta.

You will notice that in this Report I have taken the line that action initiating in Alberta, though quite possibly not ultimately confined to Alberta, is both possible and desirable, and that such action must have as its first objective access to the financial credit which is properly based upon the resources and the people of Alberta itself.

20 To put this matter beyond possibility of misapprehension, I might state that in my opinion no mere redistribution of the purchasing power already available in Alberta can be effective in attaining, at any rate with sufficient rapidity, the results demanded both by the general situation and by public opinion, and that there is no likelihood of credit being obtained from ordinary sources upon such terms as would be suitable, to the extent which is required.

I feel sure that you will agree that before I can proceed very much further I must have some decision as to the general policy which is to be pursued, and I am aware myself that you will require a Mandate for such a decision.

30 In regard to this matter, and assuming accordance with the general underlying policy, I should suggest that a Mandate be asked, as far as possible, for objectives rather than for mechanisms. These objectives in my opinion should be firstly those contained in the last section of my First Interim Report, and should be supplemented by a statement of ultimate objectives of which the following are fundamental:

1. A drastic reduction of taxation, particularly upon real property.
2. A maintenance dividend as of right, possibly small at first, and graded so as to be at a maximum after middle age.

3. Measures designed to produce a low price level within the Province, with adequate remuneration to the producer and trader.

4. Development of internal resources based rather upon physical capacity than upon financial considerations.

All of these objectives can be obtained, and can only be attained by access to control of the local credit.

The problem is at least as much a political as a technical problem, and if I might venture to make two tentative suggestions in regard to the former aspect of it, they would be (1) that, if not at present, at some suitable time, as early as possible, a coalition government should be formed, and (2) that a Department of Public Relations should be organized specifically to deal with criticism from the public both with a view to keeping the general public informed and also for the purpose of discouraging by suitable methods loose accusations of defective administration.

It does not appear that I can do very much more in Alberta which will be immediately effective until the general situation is cleared upon the lines I have just indicated, and I am therefore devoting my attention to collecting information which will enable me to proceed in accordance with the instructions of the Government when they can be given.

20 If this would meet your views, I propose to leave Alberta about the 31st instant, with sufficient information in my possession to enable several months' work to be carried on in England.

Yours very truly,

(Signed) C. H. DOUGLAS.

The Hon. R. G. Reid,  
Premier of Alberta,  
Legislative Assembly,  
EDMONTON, Alta.

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LETTER FROM PREMIER REID TO MAJOR DOUGLAS  
FOLLOWING RECEIPT OF INTERIM REPORT

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EDMONTON, ALBERTA, June 1, 1935.

Dear Major DOUGLAS:

Discussions we have had both preceding and subsequent to the receipt of your interim report have had the effect of clarifying many of the issues confronting us.

My purpose in writing at this time is to fix certain ideas that developed during these discussions, which otherwise might remain rather vague.



You take the view that the field of issuance and control of credit instruments is not fully allotted to Dominion jurisdiction, but that a portion of it remains with the Province.

Having reached this conclusion you make three recommendations which are not ultimate objectives but merely preliminary steps in the direction of reform. If nothing further could be done these measures would be of little avail.

You stated that the ends to be achieved through social credit, namely, the distribution of a maintenance dividend and the securing of a low price level within the Province, with adequate remuneration to the producer and the trader, can only  
10 be attained by securing access to control of the local credit, and that the distribution of dividends from a fund to be raised by a levy on production or by sales tax would be merely a redistribution of the purchasing power already available in Alberta, ineffective in attaining the results sought, and would not be social credit as expounded by you.

To my suggestion that the people of the Province are expecting that your report to the Government will outline a social credit plan applicable to Alberta you replied that without much further study of statistical data with respect to production, imports and other economic factors, it is impossible to state at what time or in what amount maintenance dividends could be paid, and further that until the  
20 power to deal with the public credit has been secured plans for dealing with it are wholly premature.

I would like to express my appreciation of the readiness with which you placed yourself at our disposal at all times and your unfailing courtesy throughout all our lengthy discussions.

Undoubtedly questions will raise themselves in our minds as a result of our continued consideration of these matters, and I will be writing you from time to time as there is occasion to do so.

Yours faithfully,

(Signed) R. G. REID.

Major C. H. Douglas,  
Macdonald Hotel,  
EDMONTON, Alberta.

## LETTER FROM MAJOR DOUGLAS TO PREMIER REID

MACDONALD HOTEL,  
EDMONTON, ALTA., CANADA, 2nd June, 1935.

Dear Mr. REID:

Thank you for your letter of June 1st.

In regard to the latter three of the five paragraphs of the first page of your letter, I would suggest that these appear to be a paraphrase of the subject matter of my report perhaps rather than a precis of our discussions. Since the report itself is highly condensed and the matters to which you refer cannot, I think, be  
10 with propriety detached from the subject matter which is included, I think it would be preferable to regard the report itself as covering them with the greatest possible brevity.

In regard to the first paragraph upon page two, much the same remarks apply in reference to my letter to you of the 23rd ultimo. While it is quite correct to say that the power to deal with the public credit in some form is a pre-requisite of any Social Credit plan, I am precluded from putting before you plans for the use of such credit when attained until I have a decision from your Government as to the general policy which is to be pursued.

I assume of course in this connection that no paraphrase of any statement  
20 made by me will be made public from official sources, and that should you deem it desirable to publish any documents over my signature, the whole document will be published. It is probably superfluous to add that comment on such documents when published in full is wholly legitimate.

In conclusion I should like to thank you for your very kind remarks in the two concluding paragraphs of your letter, and to assure you that I have found my conferences with your cabinet both pleasant and interesting, and that I hold myself entirely at your disposal for any assistance that it is in my power to give, either in regard to this matter or any other matters which would be a convenience to you, owing to my presence in London.

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Yours very truly,

(Signed) C. H. DOUGLAS.

The Hon. R. G. Reid,  
His Majesty's Premier of Alberta,  
The Legislative Assembly,  
EDMONTON, Alberta.

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EXCERPTS FROM BROADCAST OF WILLIAM ABERHART  
MAY 28TH, 1935

*Submitted by Hon. J. F. Lymburn, Attorney-General, to Major Douglas with  
Requests for Comments in His Position as Economic  
Adviser to the Government*

MANNING: Mr. Aberhart, I think you should say a little about the just price. This is really the finest feature for the merchants and business men of our Province. The problem that the business men are up against because of cut-throat prices and this mad rush after business through manipulation of prices is driving our business  
10 men in this Province to the wall. I am sure that if the business men of this Province could get to understand the workings of the just price there will not be any business men in the whole Province that will not support the principles of social credit.

ABERHART: Yes, Manning, I think you are right. I am satisfied that the business men can very easily see that if sufficient basic monthly dividends were issued to provide the bare necessities of food, clothing and shelter to the people that there will be at once a very large increase in the purchasing power of our people. This of course will reflect itself at once in the very great increase in the turnover of the merchant's stock. Every business man knows that his profit really rests with the amount of his turnover rather than on the immediate profit on any goods that he carries. Great  
20 departmental stores have proven that a large turnover at a low profit is far better than a small turnover at a large profit.

Some men try to tell us that as soon as we increase the purchasing power of the people by the issuance of basic dividends there will be a tendency towards the vagaries of inflation; that the price level will rise to consume the increased purchasing power, and no great benefit will be accomplished. It is at this point that we will tell or introduce the just price.

This is where the just price comes in. It is the purpose of the government to form a commission of experts . . . in various fields of professions or trades, whose duty it will be to discuss and carefully settle what a fair price would be for each  
30 article that is offered for sale within the bounds of this Province. They would take into account the cost of the raw materials, the cost of the labour, the cost of the machinery, the overhead charges for insurance, and so forth. They would add to this the commission on turnover and also the unearned increment. That is and should be the property of the state.

MANNING: At present this increment is being exploited by the manipulators of credit.

ABERHART: Yes. There is a point that many people miss. Now this just price would be the same wherever you bought the goods. It would be just to the producer, just to the distributors and just to the consumer. No producer would be required to sell the goods below the cost of production, no distributor would be required to sell the goods below the cost of securing them, whether he imported the goods or whether he gets them from our own producers. In addition to this, the just price would be just to the consumer. He would not be exploited of his purchasing power by very high prices.

This would give the small merchant a chance on a par with the larger ones.  
 10 The competition would not be in price, but in service—in the delicacy with which he exposes goods to the public gaze, for the neatness and cleanness and sanitation of his store, and so forth. No merchant would find after paying \$3.21 a case for any article that another store was selling it on a leader counter at \$2.80 a case.

Guarantee on account of the consumer—a guarantee of the account of the consumer would protect the retailer from the losses that he so often has under the present system. The increased turnover of his goods would again prevent him from loss from the goods drying out, decaying or becoming shop-worn.

The increased turnover would at once make a greater demand for clerks in the store, shippers in the wholesale houses and railways clerks on the trains and  
 20 busses, and also clerks in the producing houses. Unemployment therefore would immediately be decreased to a greater extent.

It is true that the spread in prices would be less, but if the increase in turnover was twice or three times what it formerly was, then the merchant would be able to secure greater returns through a greater turnover, even if his profit spread was less.

MANNING: You would think that any man who understood that just price arrangement if he is in business would not hesitate one moment to back up the whole system of social credit.

#### MAJOR DOUGLAS' REPLY TO HON. MR. LYMBURN

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Macdonald Hotel,  
 Edmonton, Alta., Canada, 1st June, 1935.

Dear Mr. Lymburn:

In connection with your request to criticise the attached report of a broadcast by Mr. Aberhart, I think it is only fair to make a little introductory comment.

If Mr. Aberhart's objectives were only attainable by the methods which he has outlined in his broadcasts, to the limited extent that I am familiar with them, the details that he has given would certainly be of primary importance.

This is certainly not the case, and should Mr. Aberhart be placed in a position of responsibility in regard to the attainment of these objectives, it is most improbable that he would either have the time or the inclination to deal with the purely technical aspects of the matter. While my contact with Mr. Aberhart has been of the slightest, and is in fact confined to two short interviews in which only the most general aspects of the matter were discussed, I am informed that he also takes up this position.

In addition to this, it has to be recognized that the correct methods of dealing with the technical problems involved in the attainment of the objectives put forward  
 10 by Mr. Aberhart are difficult to bring to the comprehension of even a small number of highly educated men, chiefly because they involve conceptions with which only a small number of experts are intimately familiar, and because they traverse the common and erroneous conceptions held in regard to matters of finance.

It appears to me to be quite reasonable to assume that a popular leader, as distinct from a scientific exponent, is chiefly concerned with presenting an understandable picture rather than with great accuracy in detail.

As a matter of opinion, I think Mr. Aberhart has made the common tactical mistake of elaborating his detail to a general audience to too great an extent, but if this detail is to be taken seriously I think that Mr. Aberhart should as a matter  
 20 of courtesy be asked whether such details are, or are not, a matter of principle with him.

With these preliminary remarks, which I should like to be regarded as an integral part of my criticism of the attached paper, I may say that the explanation of the Just Price is not that which can be applied to the same phrase as used in the responsible literature of Social Credit, and that the explanation given can best be described as a proposal for regulating Price Spreads together with a Processing Tax.

The proposal appears to contemplate a fixed price regardless of costs, which seem to be assumed as constant, and this price includes something labelled "the  
 30 unearned increment" which has, however, no relation to that phrase as used in the Social Credit literature. So far from such a proposal increasing purchasing power it is a form of taxation which in all probability decreases purchasing power by raising prices. It involves a confusion between price values and the purchasing power to liquidate them. There is also a suggestion of a common form of the Velocity of Circulation theory to the effect that purchasing power is increased by rate of turnover. Both under the form in which it seems to be expressed here and not less in the form in which it is quite frequently quoted by orthodox bankers, it

is demonstrably incorrect. For an examination of it I might refer you to my small booklet "The New and the Old Economics" of which no doubt a copy will be locally available. I am sorry I have not a copy with me.

Generally speaking it would appear upon the face of it that Mr. Aberhart has not grasped that Social Credit involves the *creation* of additional purchasing power, either by the reduction of prices below cost, for the purpose of enabling the consumer to obtain more goods for a given amount of money in his possession, while the financial deficit thus caused is made up to the producer in fresh credit, or by issuing additional sufficient purchasing power which is not passed through the costing  
10 system and therefore does not increase prices, in the form of a National Dividend, or more probably by both of these methods together.

But as I have previously said, these ideas are not easy to put over to large masses of people, and unless Mr. Aberhart were to persist in actually attempting to attain an increase of purchasing power by the processes he discusses I should not myself be inclined to take a political speech containing them with too much seriousness.

Yours sincerely,

(Signed) C. H. DOUGLAS.

The Hon. J. F. Lymburn,  
Attorney-General,  
20 Legislative Building,  
EDMONTON, Alta.

No. V

**Extracts from  
Speech from the Throne at the Opening of the First Session of the  
Eighth Legislative Assembly of the Province of Alberta  
on Thursday, February 6, 1936**

*(Journals, First Session of the Eighth Legislative Assembly of the  
Province of Alberta, 1936, pp. 9, 10, 11)*

His Honour then read the following speech from the Throne:

30 **SPEECH FROM THE THRONE**

*Mr. Speaker and Members of the Legislative Assembly:* This is the First Session of the Eighth Legislative Assembly of the Province of Alberta, and I assure you that I have every confidence that in our association together we shall be able to perform the important duties to which I now welcome you.

\* \* \* \* \*

In entering upon your duties this Session, therefore, your attention will be directed to a full realization of the extent to which the general economic conditions of the world continue to affect all our people, both urban and rural, and to the fact that the depression shows but little sign of abatement even after six years of devastating material and moral influence.

\* \* \* \* \*

The economic reconstruction, which my Government has promised to undertake, presents many problems, the solution of which involves new conceptions of human rights and social justice. The meeting of these problems fearlessly and  
10 without sectional or political prejudice offers a challenge to Canadian democracy which has attracted world-wide attention. I am confident that the citizens of Alberta will support my Government in this endeavour.

The two-year engagement of Major C. H. Douglas, of London, England, as Reconstruction Economic Adviser by my former Government, will no doubt be used by my present Government to advance the introduction and establishment of Social Credit principles within the Province.

A measure leading to the formulation and adoption of a plan based upon the principles of Social Credit will be submitted for your consideration.

#### No. VI

### 20 **Speech from the Throne at the Opening of the Second Session of the Eighth Legislative Assembly of the Province of Alberta (Special Session) on Tuesday, August 25, 1936**

*(Journals, Second Session of the Eighth Legislative Assembly of the Province of Alberta (Special Session) 1936, p. 7)*

His Honour the Lieutenant-Governor entered the Assembly and took his seat on the Throne.

His Honour then read the following Speech from the Throne:

#### SPEECH FROM THE THRONE

*Mr. Speaker and Members of the Legislative Assembly:* I welcome you to the  
30 Second Session of the Eighth Legislative Assembly.

Since the last Session, the Province of Alberta has been honoured with a visit from His Excellency the Right Honourable Lord Tweedsmuir, Governor General

of Canada, and the Lady Tweedsmuir. On that occasion, our citizens most heartily welcomed these distinguished visitors and enthusiastically showed their loyal admiration and respect for them.

Later in the year, my Government and the people may be privileged again to entertain their Excellencies on their return to the Province.

On account of the calamitous drought which has occurred this summer throughout the South and the East of the Province and because of the grave economic conditions resulting therefrom, my Government decided to call this Special Session of the Legislature to deal with the distressing conditions prevailing and to consider  
 10 such legislation as will place the Province in a position to cope with this difficult situation.

At this Session, further action in regard to the introduction of the Social Credit principles, the Debt Adjustment legislation, the Reduction of Interest and such other matters as may be deemed necessary for the good and welfare of our people, will be submitted for your careful consideration.

I leave you now, with confidence that you will faithfully discharge your duties and your responsibilities with wisdom and despatch, praying that Divine Providence will guide and bless your work.

His Honour the Lieutenant-Governor then retired from the Assembly.

20

No. VII

**Extracts from**

**Speech from the Throne at the Opening of the Third Session of the  
 Eighth Legislative Assembly of the Province of Alberta  
 on Thursday, February 25, 1937**

*(Journals, Third Session of the Eighth Legislative Assembly of the Province of Alberta, 1937, pp. 8, 11)*

The Honourable the Administrator then read the following Speech from the Throne:

**SPEECH FROM THE THRONE**

30 *Mr. Speaker and Members of the Legislative Assembly:* It is my privilege and pleasure to welcome you to the Third Session of the Eighth Legislative Assembly of the Province of Alberta.

\* \* \* \* \*



Further enactments regarding the establishment of a new Economic Order will be presented for your consideration, in order that the distribution and consumption or use of our goods and services may be facilitated with greater equity and efficiency.

\* \* \* \* \*

In the preparation of the Estimates my Ministers have had regard to the need of the strictest economy in keeping with sane, sound government.

There is need, however, of a viewpoint looking beyond the present state of affairs. My Ministers have in contemplation for the near future, a set of Estimates  
10 in keeping with the potential wealth of the Province and the New Economic Order.

### No. VIII

## Speech from the Throne at the Opening of the Fourth Session of the Eighth Legislative Assembly of the Province of Alberta (Special Session) on Tuesday, August 3, 1937

*(Journals, Fourth Session of the Eighth Legislative Assembly of the Province of  
Alberta (Special Session) 1937, p. 6.)*

His Honour the Lieutenant-Governor entered the Assembly and took his seat  
20 on the Throne:

His Honour then read the following Speech from the Throne:

#### SPEECH FROM THE THRONE

*Mr. Speaker and Members of the Legislative Assembly:* In welcoming you to the Fourth Session of the Eighth Legislative Assembly I assure you that I have every confidence that in association together you will perform with due care the important duties that will devolve upon you in this special Session.

My Government has received the report of the Social Credit Board and its technical advisers. You will be asked to give your earnest consideration to certain legislative enactments as a result of the report. In addition, some amendments to  
30 existing legislation will require your attention.

As this is a special Session, the greater part of the Legislation for your consideration will have to do with the obligation resting upon you to ameliorate, and if possible to remedy, conditions which are still distressing our people. For this you have had a definite mandate of the electorate. I leave you now to the business of the Session, with full confidence that you will faithfully discharge your duties and responsibilities in the best interests of the general welfare of the Province. I pray that Divine Providence will guide and bless your work.

**Speech from the Throne at the Opening of the Fifth Session of the  
Eighth Legislative Assembly of the Province of Alberta  
(Special Session) on Friday, September 24, 1937**

*(Journals, Fifth Session of the Eighth Legislative Assembly of the Province of  
Alberta (Special Session) 1937, pp. 6, 7)*

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His Honour the Lieutenant-Governor entered the Assembly and took his seat on the Throne.

10 His Honour then read the following Speech from the Throne:

**SPEECH FROM THE THRONE**

*Mr. Speaker and Members of the Legislative Assembly:* I have pleasure in welcoming you to the Fifth Session of the Eighth Legislative Assembly of the Province of Alberta, and am confident that in coming together at this time in Special Session you will perform with due care the important duties that will devolve upon you. The necessity of the Special Session would indicate to you that grave difficulties must be overcome if the mandate of OUR PEOPLE is to be implemented.

Although we have still serious drought conditions in certain parts of our Province, it is a matter of satisfaction that our Province will have much better crops  
20 this year than last. Notwithstanding the improvement that this will give, it is still evident that economic conditions are far from satisfactory.

At this Special Session you will be called upon to deal with certain conditions affecting the credit situation in our Province. Legislation will be presented to you for the purpose of liberating credit facilities which will enable OUR PEOPLE to enjoy the full benefit of their own production.

Certain amendments to present legislation will be introduced for the purpose of securing a more equitable administration.

These matters will require your most careful consideration.

I leave you now with confidence that you will faithfully discharge your duties  
30 and your responsibilities with wisdom and dispatch, praying that Divine Providence will guide and bless your work.

EDMONTON, September 24th, 1937.

## No. X

**Extract from  
a Prepared Statement Read by Honourable Solon E. Low,  
Provincial Treasurer of Alberta in the Legislature  
of Alberta on August 5, 1937**

*(Edmonton Journal, August 5, 1937)*

“The remission of the sales tax only removes something which, under pressure from finance, this government itself imposed.

Nevertheless, those instructed in the technique of Douglas dynamics will  
10 immediately recognize signs of its inauguration.

In its simpler aspect, of course, tax remission represents the first step necessary to the issue of a dividend— is, in fact the issue of a dividend; for a tax is a dividend in reverse. That is why it would be foolish to begin issuing money as dividends only to pull it in by a graduated and universally applied tax, such as the sales tax.

An amicable arrangement with the banks will, it is hoped, provide replacement of the revenue which will be lost by this remission. Otherwise it will be necessary to monetize the credit of the province through their taxation. This, coincidentally with the remission of the sales and other taxes, will introduce another  
20 essential to the Douglas technique of social dynamics, namely, ‘the just price.’

As Premier Aberhart has truly said, ‘Albertans are the best instructed community in the whole world with regard to economics’ and if anyone desires more detailed exposition of these remarks, there are plenty of Albertans everywhere fully qualified to give it and to prove beyond all reasonable doubt that whether the banks furnish the money willingly or otherwise, it will cost them nothing. There is one other point I wish to make and that is that it is the intention of this government to steadily remit taxation in this way until the costs of manufacturing in this province will be so reduced that goods made here can secure the preference of Albertans as to quality, style or price against other goods made anywhere in  
30 the world.”

## No. XI

**Certified Copy of Order in Council of the Province of Alberta,  
dated Wednesday, September 22, 1937, approved by  
His Honour the Lieutenant-Governor  
(O.C. 1070/37)**

The Executive Council has had under consideration the report of the Honourable the Provincial Treasurer, dated September 20, 1937, stating that:

WHEREAS it is provided by subsection (7) of Section 3 of The Alberta Social Credit Act, being Chapter 10 of the Statutes of Alberta, 1937, as amended by Chapter 3 of 1937 (Second Session), that it shall be the function of the Board constituted by the said Act and that the Board is empowered, with the approval of the Lieutenant-Governor in Council, to do such acts and things as it may from time to time deem proper for the purpose of promoting, conserving and enhancing the Social Credit of the Province; and

WHEREAS the Board has deemed it proper that it should, for the purpose of promoting, conserving and enhancing the Social Credit of the Province, do the **10** following acts and things:

1. Establish and operate an information bureau with the following functions:

(a) the provision to newspapers and radio stations and corporations of news relative to Social Credit and the activities of the Government and of the Board with relation to same, and the collection of matter published in newspapers and by radio both in support of and in opposition to Social Credit and reporting on same to the Government.

O.C. 1070/37

2. Establish and operate a circulation department with the following functions:

**20** (a) the compilation of leaflets, circulars, and booklets giving information of the manner in which the electors and other people of the province can realize the results of Social Credit, and for such purpose to place orders with writers for the preparation of same;

(b) procuring the publication of such leaflets, circulars and booklets and for such purpose the placing of orders with printers and others for the publication of same and other necessary work regarding same;

(c) the issuing of suitable notices to all likely to be interested, in such manner as advisable and arranging for the distribution of such literature.

**30** THEREFORE, upon the recommendation of the Honourable the Provincial Treasurer, the Executive Council advises that approval be and is hereby given to the doing by the Board of the acts and things hereinbefore set out, or any of them; Providing the expenditure for the doing of these acts and things does not exceed Five Thousand Dollars (\$5,000.00).

Certified a True Copy.

R. A. ANDISON,  
Clerk of the Executive Council.

EDMONTON, December 23rd, 1937.

## No. XII

Extracts from  
a Pamphlet Published by Authority of the Social Credit Board,  
Province of Alberta

**“ YOUR CREDIT AND MINE ”**

“ EVERY DOLLAR IN CIRCULATION IS CREATED BY THE BANKS ”

“ THE PEOPLE PAY INTEREST TO THE BANKS ON EVERY DOLLAR IN CIRCULATION ”

Text of an address delivered over Station CJCA, Edmonton, on Thursday,  
September 23rd, 1937, by the Hon. Solon E. Low, Provincial Treasurer of the  
10 Province of Alberta.

If Canada's chartered banks, as they claim, have paid in taxes in Canada during  
the last ten years the sum of \$74,301,000, it has cost them nothing. It has cost that  
much to the people of Canada, marked up in the huge debt they owe the banks and  
financial institutions.

After many years in ignorance of the true state of affairs in the money realm,  
the people are becoming enlightened on the subject of finance and the manipulations  
of financiers.

Having obtained the facts, the people of Alberta instructed their government  
to take certain action designed to obtain for them the full enjoyment of their pro-  
20 perty and civil rights in the province. In obedience to that demand the government,  
as one of its first steps, issued to the banks under date July 21, 1937, a letter over  
the signature of the provincial treasurer. This letter exposes the shocking results  
of the money monopoly exercised in Alberta by the banks and indicates definitely  
what steps are necessary to correct those evil results.

That letter is the subject of my present address.

*Basic Facts First*

Before dealing with specific parts of the communication with the banks there  
are certain fundamental facts which we should lay down as an aid to understanding  
the implications contained in the letter.

30 In the first place, it is a well-known fact that practically every dollar in cir-  
culation whether it be cash or check-book money, is created by the banks. Even  
they cannot deny this. Secondly, every dollar comes into circulation by being  
borrowed from the banks, which means that the people are paying interest to the  
banks on every dollar in circulation.

The larger the volume of money held by the people, the larger the burden of interest they are paying on it to the banks. Mr. Vickers, director of the London Assurance Corporation, in an article appearing in the *Evening Citizen* written by Mr. A. C. Cummings, says:

“I find that the nations are strangled with debt because money comes into circulation chiefly as a debt on which interest has been or must be paid. Instead of needs of trade and industry controlling the volume of credit, credit and banks control the volume of trade. Thus comes unemployment and all its evils.”

Mr. Robert Hemphill, former credit manager of the Federal Reserve Bank of  
10 Atlanta, in his foreword to Irving Fisher’s “100% Money,” says: “If all bank loans were paid, no one would have a bank deposit, and there would not be a dollar of currency or coin in circulation. This is a staggering thought. We are completely dependent on the commercial banks. Someone has to borrow every dollar we have in circulation, cash or credit. . . . . When one gets a complete grasp upon this picture, the tragic absurdity of our helpless position is almost incredible—but there it is.”

It is the operation of this vicious system that has piled up the staggering debt owed by the government of the province of Alberta, with its ever-increasing burden of interest charges which must be met out of increasing taxes on the people.

## 20 *Purchasing Power*

In the third place, banks can and do change the volume of money purchasing power in circulation without regard for the welfare of the people who really give value to it. The amount of coin and notes in circulation in Canada at December, 1936, was \$238,000,000. The amount of bank deposits at the same date was \$2,230,148,927. The difference between these two sums, \$1,992,148,927, is the banker’s own creation. It represents the monetization of real Social Credit and its real base is the goods it will buy and the services it will secure.

I quote here an extract from the MacMillan Committee on Finance and Industry, 1931:

30 “The bulk of the deposits (in banks) arises out of the action of the banks themselves, for by granting loans, allowing money to be drawn on overdraft, or purchasing securities, a bank creates a credit on its books which is the equivalent of a deposit.”

The Right Hon. Reginald McKenna, ex-Chancellor of the Exchequer and chairman of the Midland Bank, says: “The amount of money in existence varies only with the action of the banks in increasing or diminishing deposits. . . . They who control the credit of the nation direct the policy of governments and hold in the hollow of their hands the destiny of the people.”

The part that a banking system plays in creating credit is that of translating into public purchasing power something outside its own possession, such as individual or corporate assets, trading ability, and the "capability to deliver goods and services as, when, and where required."

Let me here illustrate how a bank creates credit purchasing power and how a loan becomes a deposit. John Smith, who owns a hundred cattle worth at the market price \$3,000, goes to the bank to borrow \$1,000. The bank agrees to the loan provided John Smith agrees to hypothecate to them, by way of security, his one hundred cattle.

#### 10 *Given Amount*

The necessary documents are drawn up and John Smith is given a book account of \$1,000 which he can and does pay out by cheque. He does not receive coin or other currency as a rule, but even if he does, he deposits it in another bank immediately or passes it on to someone else who deposits it immediately, either in the same bank or another in the country. In any case the loan of the \$1,000 becomes a deposit in the bank to be paid out by cheque to others who in turn deposit in banks. In making this loan the banks did not advance to John Smith other people's money. What they really did was to monetize John Smith's cattle—his real credit, and then they loaned him his own cattle and charged him interest on them. In this case  
20 John Smith's cattle were not fully monetized, hence he was not able to enjoy to the full his own property right.

In all other cases of loans on such security the result is the same—the real wealth is only partly monetized. "Hardly anyone realizes that a loan just completed is putting into circulation that much new money. Nor does the banker or borrower ordinarily realize that they are starting an endless chain of successive transactions that continues as long as this credit substitute for money remains in circulation."

When the bank asks John Smith to repay his loan, so much purchasing power goes out of existence and a train of successive transactions which would otherwise  
30 have been made with that deposit ceases. If all the banks in the nation begin calling their loans at the same time the destruction of the check-book money is enormous. Almost immediately, practically no one seems to have the normal amount of money to spend. The business of the nation decreases so rapidly that merchants and manufacturers are suddenly compelled to decrease their forces and lower the wages of the remainder.

*Comes Depression*

This is a "depression." How intense it becomes depends upon how many loans are called and paid. I here quote from page 6 of Irving Fisher's "100% Money":

10 "An essential part of this depression has been the shrinkage from 23 billions to 15 millions in check-book money, that is, the wiping out of eight billions of dollars of the (U.S.) Nation's chief circulation medium which we all need as a common highway for business. This loss, or destruction, of eight billions of check-book money has been realized by few and seldom mentioned. There would have been big newspaper headlines if eight thousand miles of our 23,000 miles of railway had been destroyed. Yet such a disaster would have been a small one compared with the destruction of eight billions out of 23 billions of our main monetary highway. The destruction of eight billion dollars of what the public counted on as their money was the chief sinister fact in the depression, from which followed the two chief tragedies, unemployment and bankruptcies."

20 The ratio of gold reserves held by the Bank of Canada to the paid-up capital of the same institution is evidence of the power of banks to create purchasing power. This bank began its operation only a few months ago with a capital of ten millions of dollars, yet to-day it holds one hundred and eighty millions approximately. It purchased this gold from the other banks with its own paper, which means that it acquired the gold for nothing by writing a draft upon itself for the sum involved and the general public honours the draft by being willing to provide goods and services in exchange for it.

*Created By Banks*

Let us at this point review the facts that have been established.

1. Practically every dollar of purchasing power is created by the banks. If anyone else presumes to make money he forthwith finds himself in gaol. Hence the banks exercise an absolute monopoly.
- 30 2. Every dollar comes into circulation by being borrowed from a bank. Therefore every dollar represents a debt created at its issue upon which interest must be paid.
3. The banks can, and do, vary the amount of money in circulation almost at will by making loans and creating by them deposits, or by buying and selling securities. And they do these things not for the benefit of the people whom they make a pretense of serving, but for their own selfish benefit.



4. The commercial banks monetize the wealth of the people by granting loans in the form of book-entry deposits backed solely by the wealth given as security. This purchasing power amounts to many many millions and costs the bank nothing but the ink and paper necessary to write the figures down. Hence, if a bank is required to pay taxes, it can do so by issuing a cheque upon itself which does not represent its own cash nor that of its depositors. That cheque may represent the hitherto unmonetized wealth of the people of the country in which the bank operates, and therefore costs the bank nothing but the keeping of the accounts. Having established these facts, we now turn to the letter itself.

#### 10 *And Tax Cut*

It opens with a statement of a demand which the people of Alberta have made upon their government to get them a dividend of \$25 per month along with a reduction in taxes. This is a clear mandate, and a truly democratic government will set out to give the people what they ask for in reason. I might say here that the government of the province of Alberta is the only democratic government in the world.

The dividend demanded by the people is to be additional to all other income. No deductions are to be made from it on account of receiving old age benefits or war pensions, or wages or salaries, or payment for the sale of goods and services.

20 It has been claimed by many unthinking people that this dividend cannot be secured for the people. One has only to study the vast resources of the province with their almost unlimited productive possibilities to be convinced that it is a very reasonable thing to expect them to yield enough to provide \$25 a month to every bona fide adult citizen of Alberta.

#### *Province Is Rich*

30 With good management, and unhindered by manipulators, our resources can be made to yield many times the amount required to pay the dividend. Consider our vast agricultural wealth. Besides that land under cultivation and producing enormous quantities of foodstuffs there are thousands of acres of the most fertile and accessible land in the country that could be put to production if water were provided for irrigation purposes.

The rivers are here: great natural reservoirs seem to have been placed in just the proper positions; the materials are here in abundance with which to build the works of concrete; the labour and machinery required are here in great quantities. The only thing lacking is money.

Why is it not available to bring the other factors of production together? Simply because the money monopoly will not provide it. It is estimated that agricultural production could easily be stepped up four or five times its present amount by building the necessary irrigation works to water the great stretches of prairie land in east, central and southern Alberta.

Our oil production has gone forward so rapidly that the great oil companies have found it necessary to reach out into neighbouring provinces for markets and at the same time to place some sort of limit on present production. And still there are vast areas, like the McMurray sands, that have not been touched, capable of  
10 yielding enough gasoline and oil to take care of the world's need for many decades.

### *Mines, Fisheries*

There are our mines and fisheries, our forest and furs and our waterfalls for electric power. No thinking person will dare to say we cannot produce enough and more than enough to satisfy the demands people will make with their dividend money. And what is physically possible is surely financially possible, for money is but a means of distribution and not a commodity in itself.

We pointed out to the banks that thousands of people who owe debts would like to repay them. They produce goods which they cannot sell or which they must sell for less-than-production costs, hence they cannot pay those debts because  
20 there isn't the money to do it. Thousands of people want debts repaid to them in order that they might purchase goods, yet they must forego those debts under the present system. I say there is no need for lack of facilities whereby debts can be paid. Only a selfish money monopoly is preventing it by refusing to properly and adequately monetize the people's wealth for the reason that they do not want to give up the power over people's lives which they hold and exercise now.

### *Tax Reduction*

Again, in our letter we pointed out the necessity for reducing taxes, quickly and drastically. Taxation reduces purchasing power in the hands of the public and progressively imposes poverty in a province where there can be sufficient  
30 for everybody. Also taxation restricts trade in that taxes are charged into production costs. And when Alberta goods come into competition with those of other countries they are at a disadvantage even if tax levels here are no higher than in those countries because we are right at the very top of the freight structure.

With decreased taxes, Alberta-made goods can successfully compete in price and quality with those of any nation in the world and Alberta will become a province of "singing looms and humming industry."

The financial powers who control the industry of the East do not want us to have our taxes reduced because they know our successful competition here would mean decreased profits from their factories in Ontario and Quebec. Taxes go mainly to meet interest charges on the debts created through the bank's system of issuing all purchasing power in the form of loans bearing interest.

At six per cent the total interest paid by the people of Canada on the purchasing power issued as cash or deposits by the banks to-day would be over 140 millions of dollars per year. Think of that! Over 140 millions per year for the right to use their own credit!

10 And the burden of taxes will continue to increase inevitably, if the people do not get behind the government's determined effort to wrest from the banks the sole right to issue purchasing credits backed by your wealth and mine. With increasing tax burdens western civilization will collapse.

#### *To Exchange Goods*

If six of us were on an isolated island having no government, and each of us specialized in the production of a certain product such as bananas or cocoanuts, or mangos, or cotton, then each would be dependent upon the other for some things which he might want that the other produced. If these six now wanted to facilitate exchange of goods by using some standard substance as money they would likely  
20 appoint one of the number to be controller of currency.

They would issue instructions to him to see that enough money is put into circulation to ensure easy exchange of all the goods produced by the six. This controller, recognizing democracy, would not restrict the amount of purchasing power so that some of the goods could not be purchased even though someone wanted them.

He would be told by the other five what to do, and if he didn't do it they would put in another who would obey. Neither would the five allow him to create the money and loan it to them at interest, for they would realize that in due time he would come to own all the goods and they would be his servants and not his masters. Likewise a truly democratic government will see to it that all money  
30 is so ordered as to enable the people to enjoy the goods and services they want and can provide, where, when, and as they require them.

#### *Market Scene*

I stood in the public market recently, during part of an afternoon. I saw there piles of fine garden and farm produce for sale at low prices. Scores of people came in, passed down the aisles, and examined with longing eyes the foodstuffs which would be a boon to the health of their children at home. Scores of them chose some very small purchase with their scanty pennies; others couldn't buy at all

because they had no money. When the market closed there were still tons of goods left unpurchased to be taken home by the people in the stalls. Tons of this would doubtless perish before next market day and yet many people left that market place hungry.

They wanted the goods; why couldn't they and their children have them? Because our financial tyranny refuses to issue enough money that they can be bought. Destruction to them must be more important than use. How long are we to continue such a loathsome practise and such a ridiculous system of money control?

- 10 We want more and better homes; the materials are nearly all produced in Alberta; the labour is here. Why can't we have them? The banks will not issue sufficient money.

#### *Need Clothing*

We want more clothing; the materials are produced here; the skilled labour is here. Why can't we get them? Because the money monopoly refuses to recognize the needs and wants of the people who are sovereign in their own confines. The banks can control the slightest social arrangements of the people or the movement of their goods and chattels because such things cost money and the banks are the lords of money issue.

- 20 The B.N.A. Act gives to the province sovereignty over the civil and property rights of the people, yet Albertans cannot enjoy these rights fully. Nor can the province exercise sovereignty over them for the purpose of preserving them for the people because a financial hegemony dictates to the Dominion Government and forces disallowance of our acts passed for the purpose of ordering the results of things done in banks for the good of the people.

- Now the banks are well equipped to carry out the people's will in respect to the policy of credits within our borders. Without the people they would not be of any use in the province. Without the people's wealth and powers of production the banks could not carry on. Therefore they should exist within our boundaries  
30 for the good of Albertans and consequently should be subject to policy control by the people whose wealth they monetize. Part of the responsibility for arranging reform must, therefore, devolve upon these institutions.

#### *Share Responsibility*

Clause 10 of the letter sets out what it will be necessary for the banks to do if they are to assume their share of the responsibility for reform of the money system. Our experts definitely ascertained the fact that for every dollar of debt we owe as a people only 20 cents in purchasing power is available to pay it.

The bankers say all we need is a few good crops and we can wipe out our debts. They lose sight of several facts established at the beginning of this speech when they talk that way. It takes money to produce, process, distribute, and consume goods. Much of the money required to do so is new money, created by monetizing the cattle, horses, homes and other forms of the people's possessions.

Each time new money is issued new debts are created upon which interest has to be paid. Hence there is not a chance that the amount of money in circulation will ever increase to the point where the debts can be paid.

Professor Rottenstrau of Columbia University investigated the debt situation  
 10 over a period of years. He found the debts of the people were constantly increasing in alarming proportions. He also found that the greatest increase in the total debts of the people as a whole, come in years when there was the greatest production.

This is because of the large amount of new money required to be issued by way of loans by the banks to bring about the production. There will continue to be an ever-widening gap between the total debts owed and the total money available to pay them with if we continue to allow the banks the sole right of money issue and circulation control. There will be an ever-increasing interest load that will demand mounting tax burdens until the sheer weight of them will crush the people and collapse will be inevitable.

#### 20 *Banks Were Told*

The banks were told that the disparity between debts owed and money available must be quickly closed up to avoid disaster. Now, if the issuance of every dollar creates a debt on which interest must be paid, with all the consequent anomalies and maladjustments in so-called civilization, then the only solution is to have the dollars issued debt-free. If they are to be issued debt-free there is only one conclusion: those dollars must not be borrowed into circulation. Your government under Premier Aberhart is labouring ahead to see to it that this malicious practice is stopped.

Sir Reginald McKenna in an article in the *London Times*, January 30, 1936,  
 30 at page 36 says: "Additional currency can now be furnished by the authorities, if they choose to exercise their powers, without reference to the Central Bank's holdings of gold. Thus the nineteenth century, which brought into general use a means of payment hitherto scarcely known outside London, brought also the machinery whereby it could be subjected to intelligent control."

Sir Reginald doubtless referred to cheque-book money or the monetization of the people's wealth by the government. It can be done without creating a load of debt if the authorities choose to exercise their powers, and all we ask is that the machinery be in very deed subjected to intelligent control.

*Will Be Paid*

The banks were assured that they would be paid well for the services rendered to the people in keeping their accounts, and that they would be protected from loss as a result of the government adopting the measures which will be necessary to bring about the proper relationship between the money available and the goods to be bought. What can be more fair than that?

The essence of the whole plan of your government is "to make money independent of loans; that is, to divorce money from banking. A purely incidental result would be to make banking safer and more profitable; but by far the most  
10 important result would be the prevention of great booms and depressions by ending the chronic inflations and deflations which have ever been the great economic curse of mankind."

Robert H. Hemphill, credit manager of the Federal Reserve Bank of Atlanta says:

"If your personal difficulty and that of all the people you know of, is lack of money, is it not obvious that the central national difficulty is but the aggregate of the difficulties of all its citizens, that the scarcity of money is our paramount national problem?"

Surely the average man on the street is coming to see the relationship between  
20 the few paltry pennies in his pocket and the piles of splendid goods begging to be bought and being destroyed for want of purchasers.

What are the banks doing about it all? After busily destroying our purchasing power by recalling loans and bringing on a depression, they saw prices and values decline. Then they were forced into more drastic efforts to preserve their solvency, and the only doctrine they could follow for self preservation was ruthless foreclosure. To-day they realize that the people are becoming aware of their secrets of many years of prosperous business, and fearful of losing their stranglehold on all there is of value in our country, they are frantically issuing hundreds of thousands of pamphlets, plying the papers with advertisements and articles  
30 sending high-priced messages over every radio station in Alberta and spending thousands of dollars in an effort to lure an enlightened and disillusioned people back into the fold, after which they hope to settle back into the smug complacency of the great banker of New York who, when asked if things were all right in the economy of a United States with millions on the dole, answered, "Well, nearly everything."

*Millions Enslaved*

I ask you to weigh carefully all sides of this great question and to take such action as will assist your government to render safe the things you hold dear—peace, security, freedom, and the right to the full enjoyment of your civil and property rights in Alberta.

If this government fails in its objective, I am sure that the cause of individual liberty and progress will be lost; the eyes of millions of enslaved people are on Alberta and their hearts are praying that we do not fail. Brethren, we must not fail!

10

## THE TRUTH ABOUT THE PRESS ACT

## AN ACT TO ENSURE THE PUBLICATION OF ACCURATE NEWS AND INFORMATION

Text of an address delivered over Station CJCA, Edmonton, on Thursday, October 21, 1937, by Dr. J. J. McPherson, M.L.A., Vegreville

The Press Act has been subjected to every criticism which the fertile mind of nearly every journalist in the Dominion could utter.

The most general criticism has been the inaccurate statement that it is “muzzling” the press. That is indeed a gross mis-statement of fact.

For, so far as the Press Act is concerned, newspapers are entirely free to say what they want to say and the Press Act demands only two main things of them.

20 The first is, that if there is any mis-statement of fact with regard to the Government’s policy, the paper that utters it shall, if requested so to do, publish a correction and give it the same position and space, if asked, that it has given to the mis-statement complained of. This it is to do free of charge.

A lot of criticism has, of course, been levelled at the fact that the Government is deemed the final judge of whether there has been a mis-statement, or not, but against this, it must be admitted that it is in order to judge finally on all points in dispute that governments exist. They represent the *Will of the People* and that, in any democracy, is the agreed final authority upon all things.

30 But, if the Government abuses its prerogative, the Press remains perfectly free to occupy every column, in every issue if it wants to, in pointing out to *The People* any Government decision in this way which, in their view, is wrong, or which does them any injury; so that the Government has to be very careful that it does not tyrannize, or register complaints of a purely vexatious, or petty nature, because, if it does so, every column, in every paper, can be devoted to telling *The People* the true situation from the newspapers’ point of view.

The second demand upon the newspapers is that they shall, when required, disclose the source of their information to the Chairman of the Social Credit Board, and this imposes no condition upon the Newspapers which those very periodicals do not, themselves, impose already upon their contributors.

For no editor will publish the most innocent letter even from our old and valued friend, "probono publico," unless he is first given the name and address of the writer.

In demanding exactly similar information, and no more, it would not appear that the Government can be charged with being very unreasonable or dictatorial.

10 The rest of the Act is taken up with prescribing the penalties for non-compliance with its provisions.

The elementary precautions in The Press Act against continued misrepresentation of the truth, either knowingly or unknowingly, as given to *The People* through the Press of the Province, are not the only points of any consequence in the Act, but they are very vital to the future welfare of *The People* of this Province. One of the criticisms of the Act which seemed to me to have the most weight, was uttered in all friendliness, and with a great deal of understanding by the editor of an Alberta journal. He said:

20 "Granting that everything you say regarding the pernicious distortion of the Government policy, by the press to be true, and I am not disputing it, nevertheless anything which curtails the freedom of the press is the negation of the ideal which brought here the majority of *The People* of this Province—the desire for the freedom of the wide open spaces.

"Surely your Act is a step towards those very restrictions that Albertans came here to escape. It seems like undermining the basic ideal of a nation who are right, when the rest of the world is wrong."

30 That, in my view, was a serious criticism, and there is nothing with which one can counter it until one realizes that the press of this country, and this province, is not free, that if it is dominated from many diverse points, all of which can be traced back to the hidden hand of high finance.

In this connection, something that Lord Tweedsmuir, His Excellency the Governor General of Canada, has written, may not be without interest. I quote him, therefore, as follows:—

"As for the press it does not greatly matter, since the press is not an independent power. But there is a great and potent world which the governments do not control. That is the world of finance—the men who guide the ebb and flow



of money. With them rests the decision whether they will make that river a beneficent flood to quicken life, or a dead glacier which freezes wherever it moves, or a torrent of burning lava, to submerge or destroy. The men who control that river have the ultimate word." (A Prince of the Captivity—page 308.)

We cannot immediately prevent such self-centred and selfish domination as that to which Lord Tweedsmuir refers, but we can see that when it is exercised to deceive *the people*, some correcting influence, however small, shall be invoked to counteract it.

And although it is a truism to say that "one can never overtake a lie," this 10 Press Act is an attempt to remove, at least some of the harm, which gross misrepresentation of many of our periodicals continually cause.

The Government of Alberta has devoted itself to fighting the money barons—they and their influenced press—even though the Government possess no newspapers with which to answer their continuous unreasoning, indiscriminatory criticism and abuse. Mr. V. C. Vickers, late director of the Bank of England, summed up the unfair circumstances in which people like Premier Aberhart fight, when he said:

"The money reformer has no press—he cannot run a press campaign against financial interests."

The utterance of truths like that is probably the reason why he is a late director 20 of the Bank of England.

There have not been wanting knowledgeable, professional journalists to tell us that we have not gone nearly far enough with this Act, who remind us of the utterance of Lord Northcliffe, probably the greatest journalist the English-speaking races have ever known, when he said: "The power of the press lies in suppression." But nothing but powers we hesitate to invoke can overcome that—perhaps the greatest force for evil our modern press possesses.

Modern mechanisms such as the financial machine, the radio, and the press are so far reaching, all pervading and potently subtle that to give undisputed control of any of them to those working some of the rackets existing to-day is like giving a 30 mentally deficient child a machine gun to play with.

Not so many years ago a lie then uttered through the medium enjoying the widest circulation, reached but a few thousand.

To-day, the same lie uttered through the microphone at Denver or Salt Lake City, perverts the minds of millions.

Bearing such matters in mind, the immense importance for good or evil of modern methods of disseminating news, and the need for some control on them, should require no emphasis.

Lord Northcliffe's dictum notwithstanding, "It is, perhaps, in the presentation of true news which the public is allowed to learn, side by side with the suppression of the source from which the news proceeds, which forms the most subtle sort of misrepresentation," and, after that, perhaps Lord Northcliffe was right and confusion is made worse confounded by suppression of news which, if published, would give an altogether different aspect to that which is permitted to leak out.

Alberta has made up its mind to control its own credit, and the control of news and the control of credit are concentric. That is to say, if you control the one, you control the other.

10 Don't be misled for one moment into thinking that the powers that be in the international financial world are not fully alive to that fact.

When you see your Government putting through legislative acts that excite interests so powerful as to set up one unified cry of rage throughout the newspapers of the entire British-speaking world, and beyond it, you can be sure that your Government is hitting the enemies of the peoples of the world in a manner which fills the financial controllers of the press with apprehension that they will lose the domination of the peoples.

In conclusion, I would add that we have had to turn a deaf ear to competent critics who warn us that finance, through its hold on large advertisers, can force any  
20 paper to adopt any policy it chooses and, in this way, indirectly impose its will.

I would urge listeners to make up their minds to see for themselves how the Act works before they condemn it.

To bear in mind that Albertans to-day have the eyes of the world upon them because the Government that they have elected, and whom they still continue to support, are recognized by most of the nations—English-speaking and foreign—throughout the world as the only people and Government that have the essential courage, knowledge and determination, to find a way to escape that financial creeping paralysis that is manifestly assailing the entire universe.

#### No. XIII

30 **Bulletin Issued by the Director of Public Relations  
Social Credit Board—Province of Alberta  
*An Act respecting the Taxation of Banks***

This circular deals with the Act respecting the Taxation of Banks, passed at the October session and from which the Lieutenant-Governor withheld his assent. What were the considerations which decided the Government to bring in this Bill? What did the Bill mean, and what benefits might accrue from it? These are questions which any government must be prepared to answer with regard to legislation.

In the first place let us bear in mind that an Act to control the policy of the banks and the implementing of the will of the Alberta people, passed at the August session, was disallowed by the Federal Government.

That under our present economic system, any government has one source of revenue only, and that is taxation.

That our people are already taxed beyond their ability to pay.

That the Province has only 20 cents with which to pay each dollar that it owes.

No industry, trade or business in the Province can possibly pay more taxes than they are paying now.

10 That the Sales Tax had been abolished, and increased revenue had to be raised to take its place.

Having been denied the right to control its credit policy by the action of the Federal Government in disallowing the Bank Act, there is only one way in which increased revenue could be realized and that was by taxing the only institution empowered to monetize the credit of the people in terms of cheque-book money. This was, at least, a field in which the Province had every right to expect its power was unchallenged. How far are we justified in making the statement that the Banks monetize the credit of the people? Leading world authorities on banking practice can be quoted but a reference to the Canada Year Book gives ample proof  
20 and let us here cite just one instance:

the coin and notes in circulation in Canada, Dec., 1936. . . . .	\$ 238,000,000
the amount of bank deposits, Dec., 1936. . . . .	2,230,148,927

The difference, \$1,992,148,927 is therefore credit in the form of cheque-book money, created by the banks. We contend that since the creation of cheque-book money is made possible by the banks monetizing the real credit of the citizens of this province, its control must be within the ambit of our constitution. Let us not overlook the fact that the great controlling factor in our business life is cheque-book money, and not coinage and not currency, which is small in proportion. If cheque-book money is created by the banks and it is done by monetizing the credit of the  
30 people, then the provincial government has a moral and constitutional right to exercise a measure of control over the policy of the banks, and most certainly the right to tax them.

Now let us consider what is meant by the act. The new tax levy is  $\frac{1}{2}$  of 1% on the Dominion-wide paid-up capital of every bank having an office in Alberta, and 1% on the reserve and undistributed profits. This is expected to yield somewhere in the vicinity of \$2,200,000. The Act is intended to apply only to chartered banks,

the idea being not to include corporations which loan only the assets they actually have, or which accept savings deposits, incidental to their business, but the banks which actually monetize credit by issuing money.

The section referring to penalties under the act gives the Province power to seize property to cover the amount of unpaid taxes, and states that "goods and chattels in the province, of the person liable for the payment of any such tax or penalty, may be seized." A penalty interest of 1% per month is to be charged against banks for any default in payment of the new taxation. If return of the report upon which the tax is to be levied is not supplied to the government by the bank officials,  
10 the officials, themselves, shall incur a penalty of \$20 for each day of default, and the bank, itself, shall be liable to doubling of the tax which it is supposed to pay. This monthly payment is to be added to an immediate penalty of 5% of the tax payable if that payment is not made to the Government this year, on the 15th day after the day upon which this act comes into force. In subsequent years the tax is to be payable April 1st.

It has been charged that the Government in its attitude towards the banks has shown utter disregard for their great responsibilities of the banks to the public and the extent to which they function in serving the people at large. As a matter of fact, nothing could be further from the truth. The Government recognizes that  
20 the monetizing of the credit of the people is fundamental to every phase of social and economic reform which it had contemplated from the beginning and to the cause of Social Credit. In all its acts it has been guided by the policy that whatever powers the chartered banks of Canada possessed to monetize credit should be placed at the disposal of the people and subject to some measure of control by the people. The Government, however, is determined that the policy in withdrawing or extending credit, which is based solely on the ability of the people to create wealth and provide services, should belong to the people and not to the banks. Taxing power of all bodies, municipal and provincial has been stretched to the limit and in many cases beyond it, but one thing remains and that is, for the people to demand that the  
30 monetization of their own credit shall be used to pay their own taxes: thus leading to an early solution of the complex problems which an ever-mounting tax burden imposes.

Increased taxes on banking institutions based on the power they possess and their ability to monetize the credit of the people of Alberta would afford a great measure of immediate relief from unbearable tax burdens and release money at present paid out in taxes for industrial development, which would in turn help to absorb many more men into industries and useful employment.

**Bulletin Issued by the Director of Public Relations  
Social Credit Board—Province of Alberta**

These bulletins are being supplied direct from the Publicity Department of the Social Credit Board, for the purpose of keeping groups closely in touch with the work of the Government. They contain material of vital importance and should be given the widest possible publicity.

We are in the midst of a fight in which we neither give nor expect to receive any quarter,—a fight we must win. The forces opposed to us have not really  
 10 started yet. No effort will be spared to add new fuel to a quenchless blaze and hell of greed, envy, fear, lust, hate, revenge, and every foul passion of the pit, in order to stop us. A united people behind a determined and courageous government must be our answer. From now our watchword must be action, consistent and unlimited. Do not be intimidated or sidetracked but let the voice of every member of every group throughout the length and breadth of this province be heard and let every-one, member and non-member, show that he or she is prepared and determined to make this a fight to the finish.

The present series of bulletins deals with recent acts, giving reasons for them, explaining them and the benefits that will accrue from them.

20 This issue of the bulletin deals with the Press Act.

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A. J. ALLNUTT,

*Director of Public Relations.*