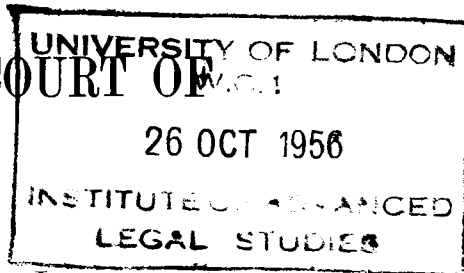


In the Privy Council.

No. 48 of 1938.

ON APPEAL FROM THE SUPREME COURT OF  
CANADA.



IN THE MATTER OF THREE BILLS PASSED BY THE LEGISLATIVE ASSEMBLY OF THE PROVINCE OF ALBERTA AT THE 1937 (THIRD SESSION) THEREOF, ENTITLED RESPECTIVELY :—

“ An Act Respecting the Taxation of Banks ” ;

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

“ 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.

BETWEEN

THE ATTORNEY GENERAL OF ALBERTA - - *Appellant*

AND

THE ATTORNEY GENERAL OF CANADA; THE CANADIAN PRESS AND NEWSPAPERS' ASSOCIATIONS; THE ALBERTA PRESS; THE CHARTERED BANKS OF CANADA AND THE ATTORNEY GENERAL OF BRITISH COLUMBIA *Respondents.*

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**PART I—PLEADINGS****No. 1**

**Order of Reference by Governor General in Council dated the  
2nd day of November, 1937 (P.C. 2749)**

**AT THE GOVERNMENT HOUSE AT OTTAWA**

**TUESDAY, the 2nd day of November, 1937.**

**PRESENT:**

**HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL**

**WHEREAS** there has been laid before His Excellency the Governor General in  
10 Council, a report from the Minister of Justice, dated November 2nd, 1937, representing:

1. 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 said province "a new economic order" upon the principles or plan of the theory known as Social Credit:
2. That the said government has since the date aforementioned secured the enactment by the Legislature of the Province of Alberta of the following statutes, more or less directly related to the policy of effectuating the object hereinbefore recited, namely:

**20 Statutes of Alberta**

1936 (1st Sess.)

Chapter 5 entitled "An Act Respecting Social Credit Measures," assented to April 3, 1936.

" "

Chapter 6 entitled "An Act Respecting the Refunding of the Bonded Indebtedness of the Province," assented to April 7, 1936.

" "

Chapter 66 entitled "An Act to Amend the Department of Trade and Industry Act," assented to April 7, 1936.

CASE

Statutes of Alberta—*Con.*

—	1936 (2nd Sess.)	Chapter 1 entitled “ An Act to Provide the People of Alberta with Additional Credit,” assented to September 1, 1936.
	“	“ Chapter 2 entitled “ An Act to Provide for the Reduction and Settlement of Certain Indebtedness,” assented to September 1, 1936.
	“	“ Chapter 3 entitled “ An Act to Amend and Consolidate the Debt Adjustment Act, 1933,” assented to September 1, 1936.
10	“	“ Chapter 4 entitled “ An Act Respecting Prosperity Certificates,” assented to September 1, 1936.
	“	“ Chapter 9 entitled “ An Act to Amend the Department of Trade and Industry Act,” assented to September 1, 1936.
	“	“ Chapter 11 entitled “ An Act Respecting the Interest Payable on Debentures and Other Securities of the Province,” assented to September 1, 1936.
	“	“ Chapter 12 entitled “ An Act Respecting the Interest Payable on the Securities of Municipalities,” assented to September 1, 1936.
20	“	“ Chapter 16 entitled “ An Act to Amend the Judicature Act,” assented to September 1, 1936.
	1937 (1st Sess.)	Chapter 9 entitled “ An Act to Amend and Consolidate the Debt Adjustment Act, 1936,” assented to June 17, 1937.
	I	“ Chapter 10 entitled “ An Act Respecting the Issuance and Use of Alberta Social Credit,” assented to April 14, 1937.
	“	“ Chapter 11 entitled “ An Act Respecting Proceedings in Respect of Debentures Guaranteed by the Province,” assented to April 14, 1937.
30	“	“ Chapter 12 entitled “ An Act Respecting the Interest Payable on Debentures or Other Securities Guaranteed by the Province,” assented to April 14, 1937.
	“	“ Chapter 13 entitled “ An Act Respecting the Interest Payable on Debentures and Other Securities of the Province,” assented to April 14, 1937.
	“	“ Chapter 30 entitled “ An Act to Provide for the Postponement of the Payment of Certain Indebtedness,” assented to April 14, 1937.

CASE

Statutes of Alberta—*Con.*

1937 (1st Sess.) Chapter 83 entitled "An Act to Amend the Prosperity Certificates Act," assented to June 17, 1937.

1 I  
2 I

" (2nd Sess.) Chapter 1 entitled "An Act to Provide for the Regulation of the Credit of the Province of Alberta, assented to August 6, 1937.

" " Chapter 2 entitled "An Act to Provide for the Restriction of the Civil Rights of Certain Persons," assented to August 6, 1937.

10 " " Chapter 5 entitled "An Act to Amend the Judicature Act," assented to August 6, 1937.

" (3rd Sess.) "An Act to Amend the Debt Adjustment Act, 1937," assented to October 5, 1937.

" " "An Act to Amend and Consolidate the Licensing of Trades and Businesses Act," assented to October 5, 1937.

3. That by Order in Council, dated August 17, 1937 (P.C. 1985), passed on the recommendation and for the reasons set out in the annexed report of the Minister of Justice, it was ordered that the following Acts of the Legislature of the Province of Alberta, intituled respectively:

20

"An Act to provide for the Regulation of the Credit of Alberta";

"An Act to Provide for the Restriction of Civil Rights of Certain Persons"; and

"An Act to Amend the Judicature Act";

being chapters one, two and five, respectively, of the Statutes of the said Province, 1937, assented to on the 6th day of August, 1937, and received by the Secretary of State of Canada on the 10th day of August, 1937, be disallowed; that upon the same date, the Deputy of the Governor General did certify under his sign manual and seal that the said Acts were received by him on the 10th day of August, 1937; and that 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 September 11, 1937 (at page 686), reciting the tenor of the said Order in Council and Certificate, the disallowance of the said Acts was duly signified.

30

Disallowed

CASE

4. That following upon the disallowance of the Acts aforementioned, the following Bills, namely:

Bill No. 1 "An Act Respecting the Taxation of Banks";

Bill No. 8 "An Act to Amend and Consolidate the Credit of Alberta Regulation Act"; and

Bill No. 9 "An Act to ensure the Publication of Accurate News and Information,"

10 passed by the Legislative Assembly of the Province of Alberta at the 1937 (Third Session) thereof, were by His Honour the Lieutenant Governor of Alberta, on the 5th October, 1937, reserved for the signification of the Governor General's pleasure; and that authentic copies of the Bills so reserved were received by the Secretary of State of Canada on the 12th October, 1937;

- 20 6. That in a submission set forth in a letter of October 12th, 1937, to the Right Honourable the Prime Minister of Canada, the Honourable William Aberhart, Premier of the Government of the Province of Alberta, stated, with reference to said Bill No. 8: "Should there be any doubt as to the constitutional validity of the press bill, we have no objection whatever to having it referred to the courts along with the question of disallowance," and, after making certain observations with particular reference to said Bills Nos. 1 and 8, concluded: "For all these reasons we contend that the question of disallowance and the press bill might well be referred to the courts for a decision."

30 AND WHEREAS the Minister of Justice reports that doubts exist or are entertained as to whether the Legislature of the Province of Alberta has legislative jurisdiction to enact the provisions of said Bills Nos. 1, 8 and 9 (authentic copies whereof are hereto annexed); and, reserving for the time being the consideration of what advice ought to be tendered to the Governor General as to the propriety of signifying, or of withholding signification of, the royal assent to the said Bills, he is of opinion that it is expedient that the question aforementioned should be referred to the Supreme Court of Canada for judicial determination.

Now, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice and pursuant to the provisions of section 55 of the Supreme Court Act, is pleased to refer and doth hereby refer the following questions to the Supreme Court of Canada for hearing and consideration:

CASE

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?

10

E. J. LEMAIRE,  
*Clerk of the Privy Council.*

**Bill No. 1 Entitled "An Act Respecting the Taxation of Banks"**

1937

(THIRD SESSION)

**BILL 1**

**An Act respecting the Taxation of Banks**

*(Reserved for the Signification of the Governor General's Pleasure—October 5, 1937)*

20 HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Bank Taxation Act.*"
2. In this Act, unless the context otherwise requires:
  - (a) "Bank" means 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 and elsewhere; and
  - (b) "Minister" means the Provincial Secretary.



CASE

3. Every bank which transacts business in the Province shall 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.

4. The tax imposed by this Act shall be determined upon the amount of the paid up capital stock or reserve fund and undivided profits thereon as the case may be, as the same stood on the Thirty-first day of March next preceding the year for which the tax is imposed.

10 5. The tax imposed by this Act shall become due and payable in the year 1937 on the sixtieth day after the day upon which this Act comes into force, and in every subsequent year shall become due and payable on the First day of April.

6. In case default is made in the payment of any tax imposed by this Act on the day upon which the same 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 said tax and penalty remain unpaid.

7. (1) Every bank shall in the year 1937 on or before the sixtieth day after this Act comes into force, and in every subsequent year on or before the Thirty-first day 20 of March, without any notice or demand, deliver in duplicate to the Minister such returns as the Minister may prescribe for the purpose of carrying out the provisions of this Act.

(2) Every such return shall be verified by the oaths of the manager or chief officer of the bank in the Province and the accountant or secretary thereof, or by such other person or persons connected with the bank as the Minister may require.

8. In case default is made in complying with the provisions of the next preceding section in respect of any return, the bank and the person or persons by whom the returns should be verified shall each incur a penalty of Twenty Dollars for each day during which the default continues and the bank shall also be liable to pay a tax of 30 double the amount of the tax to which the return relates.

9. In case default is made in the due payment of any tax or any penalty payable pursuant to this Act, the Minister may levy the same by distress upon any of the goods and chattels in the Province of the person liable for the payment of any such tax or penalty, and for the purpose of levying any such distress the Minister is here-

Whole Capital in a company P

CASE

by empowered on behalf of the Crown to issue a distress warrant under his hand addressed to the Sheriff of the Judicial District in which any such goods and chattels are situate, directing him to levy by distress the sum mentioned therein, and upon the receipt of any such warrant it shall be the duty of the Sheriff to execute the same by the seizure, and unless he is sooner paid, by the sale of the goods and chattels seized, and every such seizure and sale shall be subject to the provisions of *The Seizures Act*.

10. All sums payable on account of any tax or penalty payable pursuant to this Act shall be recoverable in an action brought by the Minister in the name of the Crown in the Supreme Court of Alberta, as a debt due to the Crown.

11. The Minister may from time to time, prescribe forms to be used in making any returns which are required to be made pursuant to this Act.

12. This Act shall come into force on the day upon which it is assented to.

**Bill No. 8 Entitled "An Act to Amend and Consolidate  
the Credit of Alberta Regulation Act  
1937**

(THIRD SESSION)

**BILL 8**

An Act to Amend and Consolidate The Credit of Alberta Regulation Act.  
20                    *(Reserved for the Signification of the Governor General's  
Pleasure—October 5th, 1937.)*

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.

Now Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Credit of Alberta Regulation Act, 1937.*"

DEFINITIONS

30    2. In this Act, unless the context otherwise requires,—  
(a) "Credit Institution" means a person or corporation whose business or any part of whose business is the business of dealing in credit;

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- 10 (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 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 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*.

20 3. (1) Every credit institution which at the time of the coming into force of this Act is carrying on the business of dealing in credit within the Province shall, within twenty-one days thereafter, apply for and obtain a licence from the Provincial Credit Commission in respect of such business, and every such application shall be accompanied with the fee provided for the licence so applied for.

(2) Every licence issued under this Act shall expire at midnight on the thirty-first day of March of the calendar year following the year in which it is issued or at such other time as the Provincial Credit Commission may by regulation determine.

30 (3) Every application for a licence by any credit institution carrying on the business of dealing in credit or any function or functions thereof within the Province, shall 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.

(4) The Provincial Credit Commission may at any time or from time to time and without notice, suspend, revoke or cancel the licence of any credit institution

CASE

which commits a breach of the undertaking referred to in subsection (3) of this section.

(5) Any credit institution whose licence has been suspended, revoked or cancelled by the Provincial Credit Commission, shall have a right to appeal to the Social Credit Board, but such right shall not extend to any credit institution against whom a judgment has been entered pursuant to section 5 of this Act for acting or assisting or encouraging any person or persons to act in a manner which restricts or interferes with the property or civil rights of any person within the Province.

(6) Every credit institution shall pay to the Provincial Credit Commission for the use of the Province annually a licence fee in such amount as fixed by the Provincial Credit Commission not exceeding an amount equivalent to One Hundred Dollars in respect of every building within the Province in which the business of such credit institution is conducted.

(7) If the licence of any credit institution has been suspended, revoked or cancelled under section 3, subsection (5) of this Act, the Provincial Credit Commission may fix a fee in excess of the fee provided in section 3, subsection (6) of this Act, 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.

4. (1) Immediately after application has been made for a licence by any credit institution and before the issue of the licence, one or more Local Directorates (the number of which shall be in the absolute discretion of the Social Credit Board) shall be appointed to supervise, direct and control the policy of the business of dealing in credit of such institution in respect of which such Local Directorate has been appointed 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.

(2) Each Local Directorate shall consist of five persons, three of whom shall be appointed by the Social Credit Board and two of whom shall be appointed by the credit institution in respect of which the Local Directorate has been appointed.

(3) The Social Credit Board may at any time for any cause which it deems sufficient, dismiss any member of the Local Directorate appointed by such Board and appoint another person to fill the vacancy.

CASE

(d) classifying licences and licensees and prescribing and regulating the fees including methods of ascertaining or calculating or determining the fees to be paid for licences;

(e) prescribing the privileges, terms, conditions, limitations and restrictions to be granted to or observed by any licensee;

(f) prescribing the conditions upon which licences may be issued and providing for the revocation, suspension or withholding of licences;

(g) for the collection of the licence fees, designating the persons by whom the same shall be collected;

10 (h) generally for the better carrying out of the purposes of this Act.

9. "*The Credit of Alberta Regulation Act*," being chapter 1 of the Statutes of Alberta, 1937 (Second Session), is hereby repealed.

10. This Act shall come into force on the day upon which it is assented to.

**Bill No. 9 Entitled "An Act to Ensure the Publication  
of Accurate News and Information"**

1937

(THIRD SESSION)

BILL 9

**An Act to Ensure the Publication of Accurate News and Information**

(Reserved for the Signification of the Governor General's Pleasure —  
October 5th, 1937).

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.

Now, Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Accurate News and Information Act*."

30 2. In this Act, unless the context otherwise requires, —

(a) "Chairman" means the Chairman of the Board constituted by section 3 of *The Alberta Social Credit Act*;

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No claim now now.



CASE

(b) "Newspaper" means a paper containing public news, intelligence or occurrences or remarks or observations thereon, printed for sale and published periodically in parts or numbers at regular intervals not exceeding thirty-one days between the publication of any two of such papers, parts or numbers, and includes a paper printed in order to be made public weekly or oftener, or at intervals not exceeding thirty-one days containing only or principally advertisements, and a paper containing accounts of events occurring within thirty-one days before the date of publication.

3. (1) Subject to the other provisions of this section, 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.

(2) Every such statement shall have written upon it a certificate in the following words: "The foregoing statement is published by the direction of the Chairman of The Social Credit Board," which certificate shall be printed at the foot of the statement to which it relates.

20 (3) Every such statement shall be printed with the type ordinarily used in the printing of the newspaper.

(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.

(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 duly 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.

30 (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 following persons, namely, the proprietor, editor, publisher or manager of the newspaper.

CASE

(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.

4. Every person who is the proprietor, editor, publisher or manager of any newspaper, shall upon being required so to do by the Chairman in writing, within twenty-four hours after the delivery of such requirement at the office or usual place of business of any of the following persons, namely, the proprietor, editor, publisher or manager of the newspaper, 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 requirement and the names, addresses and occupations of all persons by whom such information was furnished to the newspaper, and the name and address of the writer of any editorial, article or news item contained in any such issue of the newspaper as aforesaid.

5. No action for libel shall be maintainable on account of the publication of any statement pursuant to this Act against any person who is the proprietor, editor, publisher, manager or printer of the newspaper publishing the same or against any employee of any such person or against any person on account of any subsequent publication of any such statement.

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 source specified in the order.

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.

CASE  
—

(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.

8. This Act shall come into force on the day upon which it is assented to.

## No. 2

### Order of Governor General in Council dated August 17, 1937 (P.C. 1985) disallowing certain Acts passed by the Legislature of the Province of Alberta

10

CERTIFIED to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by the Deputy of His Excellency the Governor General on the 17th August, 1937.

The Committee of the Privy Council have had under consideration the annexed report from the Minister of Justice, dated August 10th, 1937, recommending, for the reasons therein stated, that the Acts of the Legislature of the Province of Alberta entitled: "An Act to Provide for the Regulation of the Credit of the Province of Alberta," "An Act to Provide for the Restriction of the Civil Rights of Certain Persons" and "An Act to amend The Judicature Act," assented to on the 6th day of August, 1937, and received by the Secretary of State of Canada on the 10th day of August, 1937, be disallowed.

20

The Committee concur in the views of the Minister of Justice as set out in the said report and advise that the said Acts be disallowed accordingly.

The Committee, on the recommendation of the Minister of Justice, further advise that a copy hereof and of the accompanying report of the Minister of Justice be transmitted to the Honourable the Lieutenant Governor of Alberta for the information of his Government.

All of which is respectfully submitted for Your Excellency's approval.

E. J. LEMAIRE,

*Clerk of the Privy Council.*

30

OTTAWA, August 10th, 1937.

*To His Excellency the Governor General in Council:*

The undersigned has the honour to report that he has had under consideration authentic copies of Acts of the Legislature of the Province of Alberta entitled: "An Act to Provide for the Regulation of the Credit of the Province of Alberta," "An Act to Provide for the Restriction of the Civil Rights of Certain Persons" and "An Act to amend The Judicature Act," the said Acts having been assented to on the 6th day of August, 1937, and having been received by the Secretary of State on the 10th day of August, 1937, with reference to the said Acts, the undersigned begs to advise as follows:

The first mentioned Act which is cited as "The Credit of Alberta Regulation Act" by its recitals and by sections 3, 4, 7 and 10 thereof provides as follows:

"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 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;

3. (1) Every banker who at the time of the coming into effect of this Act is carrying on the business of banking within the Province shall, within twenty-one days thereafter, apply for and obtain a licence from the Provincial Credit Commission in respect of such business, and every such application shall be accompanied with the fee provided for the licence so applied for.

(2) Every person employed by a banker carrying on the business of banking within the Province shall within twenty-one days of the coming into force of this Act, apply individually for and obtain from the Provincial Credit Commission a licence to carry on the business of banking or any function or functions thereof, and any such application shall be supported by a recommendation of the Local Directorate or the person in charge of the business where the applicant is employed and in the locality where the applicant is employed; and every such application shall be accompanied with the fee prescribed for the licence applied for.

CASE

(3) Every licence issued under this Act shall expire at midnight on the 31st day of March of the calendar year following the year in which it is issued or at such other time as the Provincial Credit Commission may by regulation determine.

(4) Every application for a licence by any banker carrying on business of banking or any function or functions thereof within the Province and every application for a licence by any employee of a banker shall 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  
10 within the Province, and in the case of a banker, the application for a licence shall be accompanied with the names of the two representatives of such banker as members of the local directorate.

(5) The Provincial Credit Commission may at any time or from time to time and without notice, suspend, revoke or cancel the licence of any banker or any employee of a banker who commits a breach of the undertaking referred to in subsection 4 of this section.

(6) Any banker and any employee of a banker whose licence has been suspended, revoked or cancelled by the Provincial Credit Commission, shall have a right of appeal to the Social Credit Board, but such right shall not extend to any  
20 person or corporation convicted in the courts of the Province for acting or assisting or encouraging any person or persons to act in a manner which restricts or interferes with the property or civil rights of any person within the Province.

(7) There shall be paid to the Provincial Credit Commission for the use of the Province annually a licence fee in such amount as may be fixed by the Provincial Credit Commission, not exceeding:

- (i) in the case of a banker an amount equivalent to \$100 in respect of every building within the Province in which the business of such banker is conducted;
- (ii) in the case of an employee of a bank, \$5.00.

30 (8) If the licence of any banker or person employed by a banker has been suspended, revoked or cancelled under section 3, subsection 6 of this Act, the Provincial Credit Commission may fix a fee in excess of the fee provided in section 3, subsection 7 of this Act, 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.

CASE

4. (1) Immediately after application has been made for a licence by any banker, and before the issue of the licence, one or more local directorates (the number of which shall be in the absolute discretion of the Social Credit Board) shall be appointed to supervise, direct and control the policy of the business of the banker in respect of which each such local directorate has been appointed for the purpose of preventing any act by such a banker or any employee or employees thereof constituting a restriction or interference, either direct or indirect, with the full enjoyment of property and civil rights by any person within the Province.

10 7. (1) Any banker required to be licensed by this Act shall not, while unlicensed, be capable of commencing or maintaining any action or other proceeding in any court in the Province in respect of any claim, in law or in equity.

10. With the approval of the Lieutenant Governor in Council the Provincial Credit Commission may make regulations not inconsistent with this Act:

- (f) Prescribing the conditions upon which licences may be issued and providing for the revocation, suspension or withholding of licences;
- (h) Generally for the better carrying out of the purposes of this Act.”

It is to be observed that the chartered banks of Canada organized and established under Dominion laws for the purpose of receiving deposits, providing media  
 20 of exchange in the form of bank notes, bills of exchange, cheques and promissory notes, making commercial advances and generally facilitating the trade and commerce of Canada, are excluded from Alberta except upon condition of being licensed by a Provincial Credit Commission. The condition of this licence is that the licensee shall not restrict or interfere with the property or civil rights of any person in the Province. The licence may be revoked at any time by the Provincial Credit Commission if (it would appear), in its opinion, the licensee has restricted or interfered with the property or civil rights of any person in the Province. The licensees are to be supervised, directed and controlled by one or more local directorates responsible to a Social Credit Board, the supervision, direction and control  
 30 being for the purpose of preventing a licensee from restricting or interfering with “the full enjoyment of property and civil rights of any person within the Province.” The persons affected are deprived of their rights of recourse to the courts of justice of the Province to test the constitutional validity of these enactments.

The “property and civil rights” thus sought to be protected are not specified nor is any clue afforded as to what act of the licensee would constitute a restriction or interference with such rights. The effect therefore is to vest in Provincial institutions, namely, The Provincial Credit Commission and the Social

CASE

Credit Board absolute power to fix the terms upon and the manner in which these Dominion institutions shall perform their functions, which powers are to be exercised without restriction or guidance except such as may hereafter be provided by regulations of the Provincial Credit Commission with the approval of the Provincial Government.

The second mentioned statute, which is cited as "The Bank Employees' Civil Rights Act" provides by its recitals and by section 3 thereof as follows:

10 "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;

Whereas the extent to which property and civil rights in the Province may be enjoyed depends upon the principles governing 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 whereas it is expedient that the business of banking in the Province shall be controlled with the object of attaining for the people of Alberta the full enjoyment of property and civil rights in the Province.

20 3. Any person who is an employee of a banker and who is required to be licensed pursuant to any provision of "THE CREDIT OF ALBERTA REGULATION ACT" shall not while unlicensed, for any reason whatsoever be capable of bringing, maintaining or defending any action in any court of civil jurisdiction in the Province which has for its object the enforcement of any claim either in law or equity."

It is to be observed that the penalty to be suffered by a bank employee for failure to comply with "The Credit of Alberta Regulation Act" is the loss of his civil rights. It is complementary to "The Credit of Alberta Regulation Act" as is the third mentioned Act to amend The Judicature Act, which provides as follows:

30 "2. THE JUDICATURE ACT, being chapter 72 of the Revised Statutes of Alberta, 1922, is hereby amended by inserting therein immediately after section 27b the following new section:

27c. No action or proceeding of any nature whatsoever concerning the constitutional validity of any enactment of the Legislative Assembly of the Province shall be commenced, maintained, continued or defended, unless and until permission to bring or maintain or continue or defend such action has first been given by the Lieutenant Governor in Council."

CASE

These statutes were apparently enacted upon the assumption that the authority of the Provincial Legislature to legislate in relation to property and civil rights in the Province is unrestricted by the terms of the British North America Act. This is not the case. Under the constitution of Canada the Provincial legislatures are empowered to legislate in relation to property and civil rights only to the extent that the power to legislate in relation to this subject-matter has not been assigned to the Parliament of Canada. Parliament has wide powers in this respect, notably the following:—

- 2. The Regulation of Trade and Commerce;
- 10 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.

To Parliament the British North America Act thus confided powers to establish and regulate the monetary system of Canada and the powers thus assigned are exclusive and paramount and the Provincial legislatures are wholly without authority to interfere with the exercise of such powers.

- 20 The statutes of Alberta in question constitute an unmistakable invasion of the legislative field thus assigned to Parliament. They conflict with Dominion laws and virtually supplant Dominion institutions designed by Parliament to facilitate the trade and commerce of the whole Dominion.

Owing to the vagueness of the terms of the legislation and the arbitrary powers vested in bodies responsible only to the Government of Alberta, the effect will be to produce confusion and injury to the public interest of Canada, if these statutes are left to take effect according to their terms.

- 30 While the undersigned is of opinion that no project or policy of a Provincial legislature should be interfered with by exercise of the power of disallowance merely on the ground that measures to promote such project or policy are of doubtful constitutional validity, a distinction is to be made where the legislature deliberately attempts to interfere with the operation of Dominion laws and to substitute laws and institutions of its own for those legitimately enacted and organized by Parliament and this is particularly true where the legislature has denied recourse to the courts of justice.



CASE

The undersigned therefore recommends that the said statutes of Alberta be disallowed and that a copy of this report, if approved, be transmitted to the Lieutenant-Governor of the Province of Alberta for the information of his Government.

Respectfully submitted,

(Sgd.) ERNEST LAPOINTE,  
*Minister of Justice.*

**No. 3**

10           **Proclamation of His Honour the Lieutenant Governor of the  
Province of Alberta, dated August 27, 1937 proclaiming  
disallowance of certain Acts of the Legislature  
of the Province of Alberta**

*(Canada Gazette, September 11, 1937, p. 686).*

J. C. BOWEN,  
Lieutenant-Governor.

CANADA  
PROVINCE OF ALBERTA

20           GEORGE THE SIXTH, by the grace of God, of the United Kingdom of Great  
Britain and Ireland, and of the British Dominions beyond the Seas, KING,  
Defender of the Faith, Emperor of India.

To ALL TO WHOM these Presents shall come, or whom the same may in anywise  
concern,—

GREETING:

**A PROCLAMATION**

30           WHEREAS on the sixth day of August, 1937, His Majesty's assent was given  
to Acts of the Legislative Assembly of the Province of Alberta intituled, "An  
Act to Provide for the Regulation of the Credit of the Province of Alberta," and  
being chapter 1 of the Statutes of the said Province, Second Session, 1937, and  
"An Act to Provide for the Restriction of the Civil Rights of Certain Persons,"  
and being chapter 2 of the Statutes of the said Province of Alberta, 1937, and  
"An Act to amend the Judicature Act," and being chapter 5 of the Statutes of  
the said Province, 1937, and such statutes were duly forwarded to His Excellency  
the Governor General of Canada, and by him received on the 10th day of August,  
1937.

CASE  
—

AND WHEREAS it appears from the Minute of a Meeting of His Majesty's Privy Council for Canada, being Order in Council No. 1985, that the Committee of the Privy Council has under consideration a report from the Minister of Justice, dated the 10th day of August, 1937, recommending, for the reasons therein stated, that the said Acts be disallowed, and that the Committee concurred in the views of the Minister of Justice as set out in the said report and advised that the said Acts be disallowed accordingly.

AND WHEREAS, the said Minute was approved by the Deputy of His Excellency the Governor General on the 17th day of August, 1937, and upon the same  
10 date the Deputy of His Excellency did certify under his Sign Manual and Seal that the said Acts were received by him on the 10th day of August, 1937.

AND WHEREAS, we have this day received a copy of said Order in Council, and of the said certificate of the Deputy of His Excellency the Governor General.

NOW KNOW YE, that we do hereby proclaim that we have duly received the certificate of the Deputy of His Excellency the Governor General of Canada, wherein it is stated that the said Acts intituled "An Act to Provide for the Regulation of the Credit of the Province of Alberta," "An Act to Provide for the Restriction of the Civil Rights of Certain Persons," and "An Act to amend The Judicature Act," were received by him on the 10th day of August, 1937, and

20 FURTHER, that the said Acts were by the said Order of His Majesty's Privy Council for Canada No. 1985 approved by the Deputy of His Excellency the Governor General as aforesaid, disallowed.

OF ALL WHICH Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

Witness, Our trusty and well beloved the Honourable John Campbell Bowen, Lieutenant-Governor of Our Province of Alberta, at Our Government House in Our City of Edmonton in Our said Province of Alberta, this twenty-seventh day of August in the year of Our Lord one thousand nine hundred and thirty-seven, in the First year of Our Reign.

## No. 4

**Order of Supreme Court of Canada for Inscription of  
Reference and Directions**

IN THE SUPREME COURT OF CANADA

BEFORE: The Right Honourable the Chief Justice of Canada

FRIDAY the 19th day of November, A.D. 1937.

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 ”;

10           “ 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.

Upon the application by counsel on behalf of the Attorney General of Canada for directions as to the inscription for hearing of the Case relating to the questions herein referred by His Excellency the Governor General in Council, for hearing and consideration by the Supreme Court of Canada pursuant to the provisions of section 55 of the Supreme Court Act, R.S.C. 1927, chapter 35; in the presence of Mr. Aldous  
20 Ayles, K.C., counsel for the Attorney General of the Province of Ontario; Mr. Cuthbert Scott, counsel for the Attorney General of the Province of British Columbia; Mr. O. M. Biggar, K.C., Honourable Lucien Maynard, K.C., and Mr. J. J. Frawley, K.C., counsel for the Attorney General of the Province of Alberta; Mr. G. F. Macdonnell, K.C., counsel for The Bank of Commerce, The Imperial Bank of Canada and other interested Chartered Banks, and also counsel for the Canadian Press, the Canadian Daily Newspaper Association, and the Canadian Weekly Newspaper Association; and Mr. J. D. Kearney, K.C., counsel for the following six  
20 Daily Newspapers of the Province of Alberta, namely: The Edmonton Journal, The Edmonton Bulletin, The Calgary Herald, The Calgary Albertan, The Lethbridge Herald and The Medicine Hat News; and the Alberta Division, Canadian Weekly Newspapers Association; upon hearing read Order in Council, dated November 2nd, A.D. 1937 (P.C. 2749), setting forth the said questions; upon hearing read the affi-

CASE  
—

davit of Charles P. Plaxton filed herein; and upon hearing what was alleged by counsel aforesaid:

IT IS ORDERED that the said reference be inscribed for hearing at a sittings of this Honourable Court to be holden and be heard on the 10th day of January, A.D. 1938, at the conclusion of the hearing of argument of the Reference concerning the power of His Excellency the Governor General in Council, under the British North America Act, 1867, to disallow Acts passed by the Legislatures of the several Provinces of Canada, already fixed for hearing on the said date:

AND IT IS FURTHER ORDERED that the respective Attorneys General of the  
10 several Provinces of Canada, and each of the other parties represented by counsel as  
aforementioned, be notified of the hearing of argument upon the said Reference by  
sending to each of them or to their respective Ottawa Agents by registered letter  
on or before the 27th day of November, A.D. 1937, a Notice of Hearing of the said  
Reference, together with a copy of this Order;

AND IT IS FURTHER ORDERED that the printed Case for the said Reference be  
filed on or before the 8th day of December, A.D. 1937, and that three copies thereof  
be delivered to the Ottawa Agents of the Attorneys General of the several Provinces  
of Canada, and to each of the other parties represented by counsel as aforementioned;

AND IT IS FURTHER ORDERED that the Attorney General of Canada and the  
20 Attorneys General of the several Provinces of Canada, and each of the other parties  
represented by counsel as aforementioned, be at liberty to file separate factums of  
their respective arguments on each of the Bills mentioned in the said Reference on or  
before the 4th day of January, A.D. 1938; and that the said Attorneys General and  
said other parties be at liberty to appear personally or by counsel upon the hearing  
of the said Reference.

Leave is reserved to all parties to apply for further directions.

(Sgd.) L. P. DUFF,  
C.J.

## No. 5

## Notice of Hearing of Reference

## IN THE SUPREME COURT OF CANADA

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

“ An Act Respecting the Taxation of Banks ”;

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

10 “ An Act to ensure the Publication of Accurate News and Information ”;  
and reserved by the Lieutenant Governor for the signification of the Governor General’s pleasure.

TAKE NOTICE that the Reference herein has, by Order of the Right Honourable the Chief Justice of Canada, dated the 19th day of November, A.D. 1937, been inscribed for hearing at a sittings of this Honourable Court to be holden and be heard on the 10th day of January, A.D. 1938, at the conclusion of the hearing of argument in the matter referred to this Honourable Court by His Excellency the Governor General in Council by Orders in Council dated the 28th day of October, A.D. 1937 (P.C. 2715) and the 9th day of November, A.D. 1937 (P.C. 2802), respectively, already fixed for hearing on the said date; and you are hereby notified of the hearing  
20 of the said Reference pursuant to the terms of the said Order, copy of which is hereto annexed.

Dated at Ottawa, this 22nd day of November, A.D. 1937.

W. STUART EDWARDS,  
*Solicitor for the Attorney-General of Canada.*

TO:

The Attorneys General of the several Provinces of Canada and their respective Ottawa Agents;  
W. N. Tilley, K.C., counsel for the Chartered Banks of Canada, and his Ottawa Agent Geo. F. Macdonnell, K.C.;

30 Arthur Thomson, K.C., counsel for The Canadian Press, The Canadian Daily Newspapers Association and the Canadian Weekly Newspapers Association, and his Ottawa Agent Geo. F. Macdonnell, K.C.;

J. L. Ralston, K.C., and W. S. Field, K.C., counsel for the Alberta Daily Newspapers, and the Alberta Division, Canadian Weekly Newspapers Association, and their Ottawa Agent Gordon F. Maclaren.

CASE  
—**PART II—STATUTES****No. 6****The Social Credit Measures Act  
1936****CHAPTER 5****An Act respecting Social Credit Measures***(Assented to April 3, 1936.)*

Preamble

WHEREAS under modern scientific conditions productive capacity is unlimited;  
and

10 Whereas the existence of indigence and unemployment throughout a large  
portion of the population demonstrates the fact that the present monetary system  
is obsolete and a hindrance to the efficient production and distribution of goods;  
and

Whereas discovery, invention and organization have multiplied the possibilities  
of the resources of the world to such an extent that abundance of production has  
itself created new problems; and

Whereas it is essential to the well being of the people of this Province that all  
hindrances to the efficient production and distribution of goods be done away with  
and that the people of this Province be enabled to enjoy the benefits to which their  
20 productive capacity entitles them; and

Whereas the electors of the Province are favourable to the adoption in the  
Province of a measure based on what are generally known as Social Credit principles,  
their general objects being to bring about the equation of consumption to produc-  
tion, and to afford to each person a fair share in the cultural heritage of the people  
in the Province; and

Whereas by reason of the circumstances and conditions of all businesses, indus-  
tries, trades and vocations carried on in the Province it is essential that any measure  
of the nature aforesaid should be formulated in such a way that it will be feasible  
and will be effective to better the economic conditions of the people;

30 Now, therefore, His Majesty, by and with the advice and consent of the Legis-  
lative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Social Credit Measures Act.*"

## CASE

—  
Right of  
the people  
to certain  
benefits

Powers of  
Lieutenant  
Governor in  
Council

2. It is hereby declared that the people of the Province are entitled to the full benefit of the increment arising from their association.

3. The Lieutenant Governor in Council is authorized to appoint such persons as are considered fit and proper,—

10 (a) to examine into, consider, investigate and formulate proposals having for their object the increase of the purchasing power of the consumer by means of social dividends, compensating discounts or by any other means and the payment to the producer of any commodity of a just price and the allowance to any dealer in a commodity of a fair commission on turnover, and for such purposes to ascertain all necessary facts relating thereto, and to report to the Lieutenant Governor in Council as to the feasibility of applying any such proposal or any modification thereof having regard to the economic circumstances of the Province and of the various businesses, industries, trades and vocations of the people of the Province;

20 (b) to inquire into and to investigate the prevailing circumstances and conditions of all or any specified businesses, industries, trades and vocations and to ascertain whether, and if so to what extent any of such circumstances and conditions, or either of them, operate to the disadvantage or detriment of the Province as a whole or to any class or category of persons in the Province, and to report thereon to the Lieutenant Governor in Council.

Terms  
of appoint-  
ments

4. Any persons appointed pursuant to this Act shall be appointed upon such terms and conditions, at such remuneration and subject to such regulations as may be prescribed by the Lieutenant Governor in Council.

Powers con-  
ferrable on  
appointees

30 5. The Lieutenant Governor in Council may confer upon any person so appointed, either by the Order in Council whereby he is appointed or by a subsequent order, the same power to compel the attendance of witnesses and the production of documents as may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*.

Evidence  
on oath

6. For the purpose of making any inquiry authorized by this Act, every person appointed pursuant to this Act for the purpose of making any such inquiry shall be entitled to examine upon oath such persons as he may in his discretion think proper.

## CASE

—  
Powers of  
Lieutenant  
Governor in  
Council as  
to certain  
measures

7. The Lieutenant Governor in Council is hereby authorized and empowered to adopt and to put into operation any measures designed to facilitate the exchange of goods and services or any proposal which is calculated to bring about the equation of consumption to production and thus ensure to the people of the Province the full benefit of the increment arising from their association.

Continua-  
tion of Act

8. No provision 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 Legislative Assembly.

Coming  
into force  
of Act

9. This Act shall come into force on the day upon which it is assented to.

10

## No. 7

**The Provincial Loans Refunding Act  
1936**

## CHAPTER 6

**An Act respecting the Refunding of the Bonded Indebtedness of the Province**

*(Assented to April 7, 1936.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Provincial Loans Refunding Act.*"

Definition  
of "Securi-  
ties"

20 2. In this Act the expression "securities" includes all bonds, debentures, treasury bills or notes, savings certificates and other securities issued by the Province under the provisions of any Act of the Province.

Power of  
Lieutenant  
Governor in  
Council to  
enter into  
agreements  
with  
Canada

3. The Lieutenant Governor in Council is hereby authorized to enter into agreements with the Government of Canada,—

- 30 (a) providing for the guarantee by Canada of the payment of principal and/or interest and/or sinking fund of securities heretofore issued or hereafter to be issued by the Province for the purpose of refunding all or any part or parts of the indebtedness of the Province for the time being secured by any securities of the Province:
- (b) providing for the guarantee by Canada of the payment of principal and/or interest and/or sinking fund of any securities to be issued hereafter by the Province in respect of any borrowings by the Province; and
- (c) as to any conditions or terms subject to which any such guarantee by Canada is given.



## CASE

—  
Creation  
of a  
Perpetual  
Provincial  
Stock

4. (1) For all or any of the purposes set out in this section in addition to any securities which may be issued pursuant to the provisions of *The Provincial Loans Act* the Lieutenant Governor in Council is empowered to create and issue, from time to time, a perpetual Provincial stock which shall be known as "The Alberta Government Perpetual Stock," and may from time to time create and issue different classes of such stock, for such amount or amounts as may be prescribed from time to time by the Lieutenant Governor in Council, and such stock and any class of such stock shall yield interest payable half-yearly at such rate as may be prescribed by the Lieutenant Governor in Council as the interest in respect of  
10 such stock or any class thereof.

Redemp-  
tion of stock

(2) Any stock so created shall not be redeemable until the expiration of thirty-five years from the date of its issue but on and after that day shall be redeemable on such notice, at such time or times, and either in one sum or in such sums or portions and in such order and manner as the Lieutenant Governor in Council may direct at the rate of one hundred dollars of lawful money of Canada for every one hundred dollars of the capital sums represented by the stock together with interest thereon to the date of payment.

Stock a  
charge on  
subsidies

(3) The said stock and the interest thereon shall be charged upon and paid out of the General Revenue Fund and in particular, unless the payment of the interest is  
20 guaranteed by Canada, the interest shall be a first charge upon all sums payable annually by Canada to the Province for the local purposes of the Province or for the support of the Government and Legislature thereof or on account of interest in respect of the public debt thereof or in lieu of public lands.

Creation of  
stock for  
purpose of  
refunding

(4) The purposes for which any such stock may be created and issued shall be for the purpose of retiring and refunding any securities of the Province, and for the purpose of raising any sums required for paying off the holder of the securities of the Province, and for the purpose of substituting any such stock for any treasury bills issued by the Province, or for money borrowed by the Province, or for any other indebtedness of the Province, or for some or any of such purposes.

Regulations 30  
affecting  
stock

(5) The stock shall be subject to such regulations as to the inscription, registration, transfer, management and redemption thereof as the Lieutenant Governor in Council may make.

Powers of  
Lieutenant  
Governor in  
Council—

5. (1) Notwithstanding any provision of any statute or any rule of law of any covenant, condition, stipulation, agreement or provision, whether express or implied, in any security heretofore issued by the Province for securing of any indebtedness of the Province, or affecting or relating to any such security, the Lieutenant Governor in

CASE  
— Council is hereby authorized and empowered for the purpose of retiring and refunding all securities or any specified securities of the Province now outstanding, to do all or any of the following acts and things, namely:—

to accelerate maturities

(a) to appoint as the date upon which any security heretofore issued by the Province, except only Alberta Government Stock, shall be retireable an earlier date in lieu of and in substitution for the date upon which such security is retireable according to the terms thereof;

to require holders of securities to accept payment in cash

10

(b) to declare that the holder of any security heretofore issued by the Province, except only Alberta Government Stock, shall, upon any date fixed pursuant to this section for the retirement thereof, or if no such date is fixed, upon the date upon which the same is retireable, accept in lieu of and in full satisfaction for the principal sum payable under such security Alberta Government Perpetual Stock or any other bonds or debentures issued pursuant to *The Provincial Loans Act* for a principal sum of a like amount; and

to require holders of securities to accept new securities in lieu thereof

(c) to declare that in the event of the date of retirement of any security being fixed pursuant to this section the holder thereof shall, upon the date so fixed, accept in full satisfaction of all his rights and claims under such security the principal sum payable in respect thereof in lawful money of Canada together with interest at the rate payable in respect thereof up to the said date at such place or places as may be appointed for the purpose.

Publication of orders in *The Alberta Gazette*

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(2) Every order made pursuant to this section shall be published in *The Alberta Gazette* and upon such publication shall have the same force and effect as if the same had been enacted as a part of this Act.

Orders in Council as to rights of holders of securities

6. Upon the publication in *The Alberta Gazette* of any order in council made pursuant to section 5 of this Act, the rights of the holder of any security to which the order in council relates shall be such as are set out in that order and thereafter no action shall be brought or maintained in any court of the Province in respect of any such security or for the purpose of enforcing any foreign judgment founded on any such security.

Coming into force of Act

30

7. This Act or such part or part thereof as may be designated in any Proclamation of the Lieutenant Governor in Council shall come into force upon such day or days as may be from time to time fixed by Proclamation of the Lieutenant Governor in Council.

**The Department of Trade and Industry Act Amendment Act, 1936**  
**1936**

**CHAPTER 66**

**An Act to amend The Department of Trade and Industry Act**

*(Assented to April 7, 1936.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows.

Short title

1. This Act may be cited as "*The Department of Trade and Industry Act 10 Amendment Act, 1936.*"

Section 5 amended

2. *The Department of Trade and Industry Act*, being chapter 33 of the Statutes of Alberta, 1934, is hereby amended as to section 5 thereof by striking out the words "standards of price below which no commodity produced or dealt in by the trade shall be sold whether by wholesale or retail", where the same occur therein, and by substituting therefor the words "and fixing the minimum and maximum prices chargeable for any commodity produced or dealt in by the trade and for any service rendered by the trade".

Section 6 amended

3. The said Act is further amended as to section 6 thereof by striking out the words "by sixty-six per centum of the persons engaged in the trade to which it relates 20 or by the persons owning sixty-six per centum of the aggregate capital invested in the trade", where the same occur therein, and by substituting therefor the words "by a majority of the persons engaged in the trade to which it relates or by the persons owning over fifty per centum of the aggregate capital invested in the trade."

Section 13 repealed and substituted

4. The said Act is further amended as to section 13 thereof by striking out the same and by substituting therefor the following:

"13. The Lieutenant Governor in Council may from time to time make such regulations and orders, not inconsistent with this Act, as are necessary to carry out the provisions of this Act according to their true intent."

Section 15 amended

5. The said Act is further amended as to section 15 thereof,—  
30 (a) by striking out the words "This Act shall apply to wholesale dealers", where the same occur in subsection (1) thereof, and by substituting therefor the

CASE

words "This Act shall apply to producers of, manufacturers of and wholesale dealers";

(b) by striking out subsections (2) and (3) thereof and by substituting therefor the following:

10           “(2) Upon the Minister being satisfied, after such inquiry as he deems proper, that it is expedient and in the public interest that any trade other than a trade mentioned in subsection (1) of this section should be brought within the provisions of this Act, he may recommend the bringing of that trade under the provisions of this Act, and thereupon the Lieutenant Governor in Council may by Proclamation published in *The Alberta Gazette* declare that trade to be within and subject to the provisions of this Act, and upon publication of any such order the trade named therein shall as and from the date of publication be a trade to which this Act applies.”

Section 17  
amended

6. The said Act is further amended as to section 17 thereof by striking out paragraphs (a) and (e) and subsection (1) thereof.

Coming  
into force  
of Act

7. This Act shall come into force on the day upon which it is assented to, and upon so coming into force shall be deemed to have been in force at all times from and after October eighteenth, 1934.

## No. 9

20

**The Alberta Credit House Act  
1936**

(SECOND SESSION)

**CHAPTER 1**

**An Act to provide the People of Alberta with Additional Credit**

*(Assented to September 1, 1936).*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:—

Short title

1. This Act may be cited as "*The Alberta Credit House Act.*"

Interpre-  
tation—  
"Alberta  
Credit"

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2. In this Act, unless the context otherwise requires—

(a) "Alberta Credit" means the credit provided by the Credit House for facilitating the exchange of goods and services within the Province;

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- “Board” (b) “Board” means the Board of Management of the Credit House;
- “Credit House” (c) “Credit House” means the Alberta Credit House established pursuant to this Act;
- “Currency” (d) “Currency” means current money of Canada ;
- “Person entitled to Alberta credit” (e) “Person entitled to Alberta credit” means every person of the full age of twenty-one years who is for the time being resident and domiciled in the Province who is either—
- 10 (i) A British subject who has been continuously resident and domiciled in the Province since the first day of January, 1935, and continues to be so resident and domiciled and who registers under the provisions of this Act;
- (ii) A British subject who becomes resident and domiciled in the Province at any time after the first day of January, 1935, and supports himself thereafter for three successive years and who registers under the provisions of this Act;
- (iii) a person not being a British subject who is resident and domiciled in the Province and who has been so resident and domiciled for five years and who has applied for naturalization as a British subject and who has become registered under the regulations pursuant to this Act; or
- 20 (iv) any person who may become registered as a person entitled to Alberta credit pursuant to the regulations made pursuant to this Act;
- “Superintendent” (f) “Superintendent” means the Superintendent of the Credit House appointed pursuant to this Act.

Administration of Act 3. The administration of this Act and the Superintendent, Board and all other persons engaged therein shall be subject to the direction of such member of the Executive Council as may be designated by the Lieutenant Governor in Council as the Minister charged with the administration of this Act.

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## PART I

## PRELIMINARY

Applications for registration 4. Applications for registration under this Act shall be made to any registrar appointed pursuant to this Act in the case of persons who are producers, manufacturers or dealers in commodities at any time and in the case of all other persons in the months of August and September in the year 1936 and in the month of June of every subsequent year.

Registration

5. (1) Every person entitled to Alberta credit may become registered under this Act by appearing before any registrar appointed pursuant to this Act and delivering to the registrar his application for registration in the prescribed form setting forth therein truthfully all the information required thereby and executing the agreement in the prescribed form applicable to such person.

Forms

(2) The said forms shall be such as may be from time to time prescribed by the Lieutenant Governor in Council.

Registration of persons under twenty-one

6. Any person who at any period appointed for registration by section 4 is then under the age of twenty-one years and who will become of the age of twenty-  
10 one years subsequently thereto and before the commencement of the next ensuing period may become registered during the first mentioned period as if he were then a person entitled to Alberta credit: but any such registration shall have force and effect only on, from and after the first day of the month next following the month in which such person becomes of the age of twenty-one years.

Validation of O.C. 1092-36

7. (1) A certain Order in Council dated the twenty-ninth day of July, 1936, and numbered O.C. 1092-36, and made pursuant to *The Social Credit Measures Act*, is hereby confirmed, ratified and validated, and every person who applied for registration under the provisions of the said Order in Council and signed the appropriate agreement thereby prescribed, and became registered under the provisions of the  
20 said Order in Council, shall be deemed to have become registered under the provisions of this Act unless such person, not later than the thirtieth day of September, 1936, sends by mail in a prepaid cover addressed to the Superintendent of the Credit House, Edmonton, Alberta, a notice in writing to the effect that he desires such registration to be cancelled.

Construction of certain agreements

(2) Every agreement made upon registration as aforesaid shall be construed as a declaration by the registrant of the manner in which he is willing to cooperate upon the receipt by him of Alberta credit and as a condition thereof, and as a declaration in general terms on the part of the Government of the various  
30 measures for the benefit of the registrant which the Government intends to bring into effect as soon as may be convenient or practicable in the circumstances; no action or proceeding of any kind shall be maintainable in any court of the Province in respect of any matter or thing contained in any such agreement.

Cancellation of registration

8. The Superintendent may by writing under his hand cancel the registration under this Act of any person upon being satisfied of the existence of any of the following circumstances—

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- (a) that in his application for registration the applicant has made any serious, wilful and material misstatements;
- (b) that such person has ceased to be *bona fide* resident and domiciled in the Province for a period of more than one month without the approval in writing of the Superintendent;
- (c) that such person has made default in the performance or observance of any of the provisions contained in any agreement signed by him upon his becoming so registered.

Notice of  
cancellation

9. (1) Whenever the registration of any person is so cancelled the Superintendent shall cause to be sent by mail to the person whose registration is cancelled addressed to his post office address a notice of such cancellation and thereupon the registration of such person as well as the agreement entered into by such person on registration shall become null and void and of no effect and all benefits and duties thereby created shall utterly cease and determine and no action or other proceeding of any kind shall be maintainable by either party to the said agreement or by any other person in respect of anything therein contained.

Subsequent  
registration

(2) The fact that the previous registration of a person entitled to Alberta credit has been cancelled shall be no disqualification to his becoming subsequently registered with the consent of the Board.

Right to  
benefits and  
subjection  
to levy for  
unearned  
increment

20 10. The right to receive any benefit under this Act of any person who produces, manufactures or deals in any commodity or renders any service shall be subject to the condition that any Alberta credit received by him for any commodities or services may, upon being transferred in the Credit House, be subject to a levy at such rate as may from time to time be prescribed by the Lieutenant Governor in Council as representing the unearned increment in the price paid for any such commodities or services for the purpose of preventing redundant credit and maintaining the proper equation between consumption and production.

## PART II

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## CONSTITUTION OF THE ALBERTA CREDIT HOUSE

Establish-  
ment of  
Alberta  
Credit  
House

11. There is hereby constituted and established a Credit House to be called "The Alberta Credit House" and the same is hereby declared to be a body corporate.

Head office

12. (1) The head office of the Credit House shall be in the City of Edmonton.

Branches  
and agents

(2) The Credit House may establish branches and appoint agents at such places in the Province as may be approved by the Lieutenant Governor in Council,

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and shall establish branches at such places in the Province as may be designated by the Lieutenant Governor in Council as places at which branches are to be established.

Board of management

13. (1) The Credit House shall be under the management of a Board which shall consist of such persons, not more than five in number, who shall be appointed by the Lieutenant Governor in Council and one of such persons shall be designated as the Superintendent of the Alberta Credit House, and all such persons shall hold office during pleasure and shall receive such remuneration as may be prescribed from time to time by Order in Council and each such person shall  
10 devote so much of his time to the discharge of his duties as may be from time to time prescribed by Order in Council.

Duties of Board

(2) The nature of the duties of the Board and the manner in which the same shall be discharged shall be such as may be prescribed from time to time by the Lieutenant Governor in Council.

Superintendent

14. (1) The Superintendent shall be the chief executive officer of the Credit House and shall, on behalf of the Board, have the direction and control of the business of the Credit House with authority to act in connection with the conduct of the business of the Credit House in all matters which are not by this Act or by any regulations made pursuant hereto specifically reserved to be done by the  
20 Board.

Deputy Superintendent

(2) The Lieutenant Governor in Council may designate any member of the Board as the Deputy Superintendent and in the event of the absence or incapacity of the Superintendent from whatever cause arising, the Deputy Superintendent shall have and may exercise all the powers and functions of the Superintendent.

Employment of registrars, officers, etc.

15. (1) With the approval of the Lieutenant Governor in Council, the Board may employ such registrars, officers, clerks and employees as may be necessary and prescribe the remuneration, duties and conditions of employment of any persons so employed.

Application of *The Superannuation Act*

(2) The Superintendent, members of the Board and employees of the Credit  
30 House, other than temporary employees, shall be deemed to be employees within the meaning of *The Superannuation Act* and shall be subject to and entitled to the benefit of all the provisions of that Act.

Non-communication of information

16. Neither the Superintendent nor any member of the Board nor any employee of the Credit House shall communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Credit



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House nor allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Credit House and relating to the business thereof.

Commencement of operations

17. The Credit House shall commence its operations only with the approval of the Lieutenant Governor in Council.

## PART III

## PROVISION OF CREDIT

Functions of Credit House

18. The principal function of the Credit House is to furnish to persons entitled to Alberta credit facilities for the exchange of goods and services in the Province in order to effect equation between the purchasing power of such persons within the Province and production within the Province, and for the purpose of discharging that function the Credit House is empowered, subject to the other provisions of this Act and any regulations made pursuant thereto—

- 20
- (a) to provide every person entitled to Alberta credit with the amount of any Alberta credit to which he may become entitled in such manner as may be prescribed by the Lieutenant Governor in Council;
  - (b) to receive deposits of Alberta credit vouchers and of transfers of Alberta credit made in conformity with this Act from any depositor thereof and to keep an account of all such Alberta credit so received and to keep an account of any transfers of Alberta credit made by the depositor; and
  - (c) to receive currency and all kinds of negotiable instruments from any person and to convert the same into Alberta credit for an amount expressed in terms of currency equal to the currency and negotiable instruments so received and to make available to such person Alberta credit for the amount thereof.

Transfer of Alberta credit

19. The person to whom Alberta credit is made available shall be entitled to transfer the same by means of instruments of such nature and description as may be prescribed by the Lieutenant Governor in Council.

Coming into effect of transferred credit

20. Every transfer of Alberta credit made in conformity to this Part shall become effective upon the presentation or delivery thereof to the Credit House or to any branch thereof.

Prohibition of payment in currency

21. No person whatsoever shall be entitled to demand from the Credit House any payment in currency or otherwise in respect of any Alberta credit provided pursuant to this Act to which he may be entitled, regardless of the nature of his title.

Deposits of  
currency  
and  
securities

22. Subject to any regulations, the Credit House is empowered to accept deposits of currency and securities from any person and to deal with the same in such manner as may be agreed upon between the Credit House and the depositor.

Advances  
of Alberta  
credit

23. (1) Subject to any regulations made pursuant to this Act, the Credit House is empowered to provide an advance of Alberta credit to any person engaged in agriculture or manufacture or industry in the Province, and to any person entitled to Alberta credit to defray any of the cost of the building of a home or the establishment of such person in any business, vocation or calling.

Subject to  
direction  
of Board

10 (2) The amount of Alberta credit which may be advanced shall be subject to the direction of the Board and shall be repayable within such period as may be agreed upon.

Securities  
therefor

(3) Before provision is made of any Alberta credit by way of loan pursuant to this section, the recipient shall give to the Credit House such security for the due restoration of the Alberta credit to be provided, as the Board may direct for an amount in terms of currency equal to the amount of the Alberta credit which is to be provided and without in any way restricting the nature of the securities which may be taken, the Credit House may take securities by way of a mortgage upon any growing crop notwithstanding anything contained in *The Bills of Sale Act* or any other Act to the contrary.

Free of  
interest

20 (4) No interest is to be payable in respect of any credit so provided.

Restoration  
of advance

(5) Notwithstanding the provisions of any other Act of the Province, every person who has received an advance of Alberta credit under this section shall, upon the day fixed for that purpose, restore to the Credit House the difference between the amount of Alberta credit advanced and the amount of Alberta credit which he then has as shown by his account in the Credit House, either by delivering to the Credit House transfers of Alberta credit to the amount of such difference or by the payment to the Credit House of currency equal in amount to the amount of such difference expressed in terms of currency.

Charge in  
respect of  
advance

30 (6) Upon the making of any advance of Alberta credit the Credit House shall make a charge for administration purposes not in excess of two per centum per annum on the amount expressed in terms of currency of the advance, and such charge shall be payable upon the making of the advance either by a transfer to the Credit House of an equivalent amount of Alberta credit or in currency at the option of the recipient of the advance, and such charge shall be in addition to any disbursements for the registration or filing of any security taken for the advance.

Disposition  
of securities  
upon de-  
fault in res-  
toration

(7) In case default is made in the restoration of any advance of Alberta credit upon the day fixed for that purpose and no arrangement is then made for the restoration thereof, the Credit House may at any time after the occurrence of any default enforce, sell, realize and dispose of any securities held by it to the extent that may be necessary to realize the amount then due in terms of currency to the Credit House in respect of the advance of Alberta credit to which the securities relate.

Charges for  
services by  
Credit  
House

24. The Credit House is empowered to make such charges in respect of any service for which no charge is expressly provided by this Act in relation to any deposit of any kind made with the Credit House or any other service or facility provided by the Credit House pursuant to this Act as may be from time to time prescribed by the Board and approved by the Lieutenant Governor in Council.

Receipt of  
dividend by  
member of  
Legislature  
no disquali-  
fication

25. (1) Notwithstanding any provision of any Act to the contrary, no person shall be subject to any disqualification as a candidate for election as a member of the Legislative Assembly or as a member of the Legislative Assembly by reason of his receipt or acceptance of any Alberta credit provided for him under any provision of this Act by way of any dividend or by reason of his right to receive or accept any such Alberta credit.

No credit  
dividend  
received to  
be income

20 (2) No Alberta credit dividend shall be deemed to form any part of the income of the person for whom the same is provided nor shall it be subject to taxation as income nor shall it be regarded or taken into account in making any computation of the amount payable on account of the remuneration payable to any person by the Province or the amount payable to any person in pursuance of any Act of the Province in the nature of pensions, allowances or relief.

Special fund  
for money  
receipts and  
disposition  
thereof

26. The Credit House shall pay into a special fund all money received by it in return for or on account of any Alberta credit and all other money received for the purposes of the Credit House, and such funds shall be kept in a chartered bank or other place of safe-keeping approved by the Lieutenant Governor in Council and shall be used for the following purposes and not otherwise, namely—

- 30 (a) for the defrayal of the expense of operation of the Credit House;
- (b) for the conversion into currency of any Alberta credit which any person has with the Credit House for the purpose of paying to such person currency equal to the amount of Alberta credit expressed in terms of currency to the extent to which such conversion and payment is for the time being authorized by the regulations; and

CASE — (c) to acquire any security issued by the Province under the provisions of any Act, or any security issued or guaranteed by the Dominion of Canada.

Provision of credit for Provincial Treasurer 27. (1) The Credit House shall, whenever directed so to do by order of the Lieutenant Governor in Council, place at the disposal of the Provincial Treasurer Alberta credit to such amount, expressed in terms of currency, as may be specified in the order.

Utilization of such credit 10 (2) With the approval of the Lieutenant Governor in Council the Provincial Treasurer is hereby authorized to transfer any Alberta credit so placed at his disposal to persons who are willing to accept the same in full or partial satisfaction, as the case may be, of any claim against the Province for the payment of money if such claim is one which is payable out of a vote of the Legislative Assembly.

Acceptance and use of credit by Provincial Treasurer 28. Notwithstanding the provisions of any Act, the Provincial Treasurer, with the approval of the Lieutenant Governor in Council, is hereby empowered—

- (a) to accept transfers of Alberta credit in satisfaction or partial satisfaction of any claim which the Province has against any person for taxes or on any other account; and
- (b) to use any Alberta credit so accepted by making transfers thereof to persons who are willing to accept Alberta credit in satisfaction or partial satisfaction of any claims against the Province.

Acceptance and use of credit by municipalities 20 29. Notwithstanding the provisions of any Act, every corporate body which is a city, town, village, municipal district or school district is hereby empowered—

- (a) to accept transfers of Alberta credit in satisfaction or partial satisfaction of any claim which the corporate body has against any person for rates, taxes, services or otherwise; and
- (b) to use any Alberta credit so accepted by making transfers thereof to persons who are willing to accept Alberta credit in satisfaction or partial satisfaction of claims against the corporate body in respect of its ordinary services or in payment of relief or the carrying out of any public work.

Regulation by Order in Council 30 30. The Lieutenant Governor in Council may from time to time make regulations—

- (a) prescribing in terms of currency the amount of Alberta credit which shall be provided by the Credit House from time to time for persons entitled to Alberta credit upon registration;

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- (b) establishing classifications of persons entitled to Alberta credit who have been registered having regard to any circumstances relating to purchasing power and/or production and/or economic conditions;
- (c) prescribing from time to time the amount, expressed in terms of currency, of Alberta credit which shall be provided by the Credit House for each person entitled to Alberta credit who is registered or for each person included in any classification established pursuant to this section and may prescribe different amounts in respect of different classifications;
- 10 (d) prescribing the amount of Alberta credit which shall be provided by the Credit House and issued to any classification of persons in respect of specified products or commodities by way of a bonus upon the conversion into Alberta credit of the proceeds of sale of any such product or commodity, and generally as to the conditions under which any such Alberta credit shall be so issued;
- (e) prescribing the amount of Alberta credit which shall be provided by the Credit House and issued to any classification of retailers in respect of any specified commodities by way of a compensating discount in respect of commodities sold at a price authorized by the Board which is less than the ordinary price thereof, and generally as to the conditions under which any such Alberta credit shall be so issued;
- 20 (f) to regulate the amount of Alberta credit for the time being issued and uncanceled having regard to the amount of the production and consumption respectively of commodities;
- (g) to prescribe the rate by which any Alberta credit transferred in the Credit House by a person who produces, manufactures or deals in any commodities or renders any services may, upon being so transferred, be subject to a levy representing the unearned increment included in the price of commodities and services; and
- 30 (h) prescribing as to the manner in which any function, proceeding or transaction authorized by this Act shall be carried out and the forms to be used in relation thereto.

Variation of  
or additions  
to Act

31. (1) For the purpose of giving effect to the intent and purpose of this Act, the Lieutenant Governor in Council is empowered by order to vary, add to or supplement with new provisions any of the provisions of this Act for the purpose of providing for matters arising out of the operation of this Act for which no express provision is made.

Publication  
of orders

(2) Every Order in Council made pursuant to this and the last preceding section shall be published in *The Alberta Gazette* and upon publication shall have the same force and effect as if it had been enacted as a part of this Act and shall take effect upon publication or upon such later date as may be specified for that purpose.

Records

32. The Board shall cause a true and correct record to be kept of all its business affairs and transactions and such record shall be kept in such form and manner as may be from time to time approved by the Provincial Auditor.

Audit

33. The Provincial Auditor shall at least once during each fiscal year and 10 whenever required to do by the Lieutenant Governor in Council or by the Board, make an audit of the business affairs and transactions of the Credit House and shall make a report thereon to the Lieutenant Governor in Council; and a copy of every such report shall be submitted to the Legislative Assembly at the Session commencing next after the making of any such report along with and as an appendix to the statement of the public accounts made pursuant to *The Treasury Department Act*.

Defrayal of  
expendi-  
tures by  
Board

34. The Provincial Treasurer is hereby authorized, with the approval of the Lieutenant Governor in Council, to pay to the Board out of the General Revenue Fund such sums as may be required by the Board for the defrayal of any organiza- 20 tion and administration expenditures incurred by the Board with the approval of the Lieutenant Governor in Council in connection with the operations of the Board.

Employ-  
ment of  
agents by  
Board

35. With the approval of the Lieutenant Governor in Council the Board is empowered to engage and employ such persons as agents for the purpose of carrying out any function, duty or power of the Board as may be deemed proper and convenient and to pay any agent so engaged or employed such remuneration as may be agreed upon.

Coming  
into force  
of Act

36. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant Governor in Council.

## No. 10

**The Reduction and Settlement of Debts Act  
1936**

(SECOND SESSION)

**CHAPTER 2**

**An Act to provide for the Reduction and Settlement of Certain Indebtedness**

*(Assented to September 1, 1936).*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- |              |    |  |
|--------------|----|--|
| Short title  | 10 | 1. This Act may be cited as " <i>The Reduction and Settlement of Debts Act.</i> "  |
| Definitions— |    | 2. In this Act, unless the context otherwise requires—   |
| "Debt"       |    | (a) "Debt" means any sum in the nature of a liquidated demand for the payment of which any person is liable by virtue of any contract, agreement, covenant or stipulation, whether in writing or oral, and whether express or implied, but does not include— |
|              |    | (i) any debt due to or by the Crown in the right of Canada;  |
|              |    | (ii) any debt due to or by the Crown in the right of the Province;   |
|              |    | (iii) any debt due to the Canadian Farm Loan Board or the Soldier Settlement Board;  |
| 20           |    | (iv) any indebtedness for assessments, rates or taxes payable pursuant to any statute or pursuant to the terms of any agreement providing for the consolidation and payment of taxes, rates or assessments;  |
|              |    | (v) any debt due to or by a city, town or village, municipal district, improvement district, school district, irrigation district, drainage district or municipal hospital district;   |
|              |    | (vi) any indebtedness guaranteed by the Crown in the right of the Province;  |
|              |    | (vii) any debt in respect of which a direction has been made or given by the Debt Adjustment Board under the provisions of <i>The Debt Adjustment Act, 1933</i> , for the payment of money in the year 1936;   |
| 30           |    | (viii) any other kind or description of debt which is declared by the Lieutenant Governor in Council to be a debt to which this Act does not apply.  |

“Debt Adjustment Board”

(b) “Debt Adjustment Board” means the Debt Adjustment Board constituted pursuant to *The Debt Adjustment Act, 1936*; and

“Old debt”

(c) “Old Debt” means any debt the whole of the consideration for which arose before the first day of July, 1932, and includes any debt of any person under any guarantee for the payment of any old debt whether the guarantee was given prior to the first day of July 1932, or at any time thereafter.

Extent of old debt recoverable

3. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any old debt is made payable, the amount which shall be recoverable on account of any old debt shall be the following amount and no more, namely: the amount of the balance of the old debt outstanding and payable as at the first day of July, 1932, including any advances made under and by virtue of the agreement or other instrument, creating or securing the debt, together with any further advances so made since that date, reduced by any payments made since that date whether on account of principal, interest or otherwise; and as and from the first day of July, 1932, no interest shall be payable on any part of the said amount.

Extent of other debts recoverable

4. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any debt other than an old debt is made payable, the amount which shall be recoverable on account of such debt shall be the following amount and no more, namely, the amount of the original debt together with any subsequent advances made in respect thereof together with simple interest thereon at the rate, if any, stipulated for the payment thereof or at the rate of five per centum per annum, whichever rate is the less, less all sums paid on account of the debt whether in respect of principal or interest since the time when the debt was originally created.

Unsatisfied judgments

5. In case any judgment has been entered in any court in any action for the recovery of any old debt which has not been satisfied at the time when this Act comes into force, the amount payable under such judgment shall be the amount of the old debt to the extent that the same is recoverable pursuant to section 3 hereof together with the taxed costs of judgment and execution.

Contracts as to addition of interest to principal

6. For the purpose of computing the amount of any indebtedness recoverable under this Act, no account shall be taken of any contract, agreement, covenant or stipulation whereby any interest accruing from and after the first day of July, 1936, is to be added to and form part of any principal sum and for the purpose of such computation every such contract, agreement, covenant and stipulation shall as and from the first day of July, 1936, be null, void and of no effect.



Payment  
by instal-  
ments of  
old debt

7. (1) Unless it is otherwise ordered pursuant to subsection (3) or subsection (4) hereof, the amount recoverable in respect of any old debt shall be payable by ten annual instalments on the fifteenth day of November in the year 1937 and in each ensuing year in the following amounts, namely: the amount of the first, second and third instalments shall be five per centum of the amount recoverable; the amount of the fourth, fifth, sixth and seventh instalments shall be ten per centum of the amount recoverable; the amount of the eighth, ninth and tenth instalments shall be fifteen per centum of the amount recoverable.

10 (2) Notwithstanding subsection (1) hereof the person liable for the payment of any such old debt shall be entitled to pay the same either wholly or in part at any time before the days prescribed by this Act as the days upon which the instalments thereof are to become due and payable and the person entitled to payment shall accept any such payment.

(3) Any necessitous creditor may apply to the Debt Adjustment Board for an order fixing the amount of any instalment or instalments to be paid by the debtor in respect of the recoverable indebtedness at an amount greater than the amount fixed by this section or fixing as the date or dates upon which any instalment or instalments shall be paid a date or date other than the date or dates prescribed by this section, but no such order shall be made except—

- 20 (a) upon five days' notice of the application to the debtor unless otherwise ordered by the Board;
- (b) a full enquiry has been made by the Board into the necessitous circumstances of the creditor and the circumstances of the debtor; and
- (c) the Board is satisfied, having regard to the necessity of the creditor and the ability of the debtor to pay, that it is convenient and proper that the debt should be made payable otherwise than in the instalments and at the times hereinbefore specified.

30 (4) In case default is made in the payment of any instalment or the part of any instalment directed to be paid pursuant to section 9, the Board may in its discretion, after due inquiry into the circumstances, make an order declaring that any instalment or instalments not then due are due and payable forthwith and issue a permit authorizing the creditor to take such proceedings in respect thereof as may be specified in the order.

Prohibition  
of proceed-  
ings in  
respect of  
old debt  
without a  
permit

8. (1) From and after the coming into force of this Act no action of any kind shall be maintainable and no proceeding by way of distress or seizure for the recovery of any old debt shall be taken nor shall any such action or proceeding be continued unless the person liable for the payment thereof has made default in the payment of any of the instalments prescribed by section 7, and a permit has been issued pursuant to this Act authorizing the taking of such action or proceeding.

(2) For the purposes of this section "proceeding" includes the exercise of any right to seize or take possession of any crop created by any crop lease given in respect of any old debt or by virtue of any attornment by a debtor to a creditor in respect of  
10 any old debt.

Proceedings  
in respect of  
old debt on  
default of  
payment of  
instalment

9. (1) In case any instalment of an old debt is not paid on the day fixed by this Act for the payment thereof the person entitled to enforce payment of the old debt may apply to The Debt Adjustment Board for a permit to take such action or other proceedings as he may be entitled to take.

(2) If after due inquiry the Board is satisfied that the non-payment of the instalment was due to circumstances over which the debtor had no control such as drought, hail, frost or any other act of nature or due to the fact that the debtor was unable to make the payment because of his inability to obtain payment of debts due to him from others by reason of the existence of any similar circumstances, the Board  
20 shall not issue the permit applied for.

(3) If after such inquiry it appears to the Board that the debtor is in a position so to do, the Board may by order direct the payment of so much of the instalment as the Board deems fit and proper, and the Board may make the failure to comply with any such direction a condition of the refusal of a permit and shall distribute the balance of that instalment among the subsequent instalments and make additions thereto accordingly.

(4) Upon the refusal of any application for a permit pursuant to subsection (2), the time for payment of the instalment in respect of which the application is made shall be the fifteenth day of November following the application if the application is  
30 made before the first day of July and, if the application is made after the first day of July, on the fifteenth day of November of the following year: the time of payment for every subsequent instalment shall be postponed by the same number of years as the number of years of the postponement for the time for payment of the instalment in respect of which the application is made; and in case an application is made for a permit in respect of more than one instalment the earliest of such instalments shall, for the purposes of this subsection, be deemed to be the instalment in respect of which the application is made.

Non-  
application  
of sections  
8 and 9

10. The provisions of sections 8 and 9 shall not apply when the debtor is a person against whom a Writ of Attachment may be issued, pursuant to the Rules of Court relating to absconding debtors.

Computa-  
tion of time  
under *The  
Limitation  
of Actions  
Act, 1935*

11.—(1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same  
10 time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

(2) For the purpose of this section the proceedings mentioned and described in sections 8 and 9 of this Act shall, whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said section, be deemed to have been prohibited so long as this Act remains in force, subject to the provisions contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period  
20 subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced.

Declaration  
by Order in  
Council as  
to debts  
excepted  
from Act

12. The Lieutenant Governor in Council may from time to time declare that any kind or description of debt is a debt to which this Act does not apply and every such order shall take effect upon publication in *The Alberta Gazette* either upon publication or upon any later date thereby fixed for the purpose, and upon such publication shall have the same force and effect as if it had been enacted as a part of this Act.

Non-  
application  
of Act to  
certain con-  
tracts for  
settlement  
of debts

30 13. (1) The provisions of this Act shall not apply to any debt or old debt, which by any contract, agreement or settlement between the parties has been reduced to an amount which is less than the amount of the indebtedness which would otherwise be recoverable under this Act.

Contracts  
waiving  
Act void

(2) Except as provided in this section, it shall not be competent for a debtor to waive or to forego any of the benefits to which he may become entitled under this Act, and every contract, agreement or arrangement whatsoever to that end shall be absolutely void.

Application  
of *The Debt  
Adjustment  
Act, 1936*

14. The provisions of *The Debt Adjustment Act, 1936*, as to any matters of procedure in relation to the issuance of permits shall, *mutatis mutandis*, apply to the issuance of permits under this Act.

Construc-  
tion of Act

15. This Act and *The Debt Adjustment Act, 1936*, shall be read and construed together, and in the case of any conflict between any of the provisions of 10 this Act and any of the provisions of *The Debt Adjustment Act, 1936*, the provisions of this Act shall prevail.

Restriction  
of Act to  
matters  
within com-  
petence of  
Legislature

16. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

Coming  
into force  
of Act

17. This Act shall come into force on the day upon which it is assented to.

## No. 11

### The Debt Adjustment Act, 1936 1936

(SECOND SESSION)

#### CHAPTER 3

20

#### An Act to amend and consolidate The Debt Adjustment Act, 1933

(Assented to September 1, 1936).

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:—

Short title

1. This Act may be cited as "*The Debt Adjustment Act, 1936.*"

#### PRELIMINARY

Defini-  
tions—  
"Board"

2. In this Act, unless the context requires a contrary meaning—

(a) "Board" means the Debt Adjustment Board constituted pursuant to this Act;

"Clerk"

30

(b) "Clerk" means the clerk in a judicial district and the deputy clerk in a subjudicial district;

“Judicial district”  
 “Resident farmer”

- (c) “Judicial district” includes a subjudicial district;
- (d) “Resident farmer” means a person who is an actual resident of and personally living in the Province of Alberta who—
  - (i) is personally *bona fide* engaged in farming operations in the Province; or
  - (ii) being the owner of a farm property, was personally *bona fide* engaged in farming operations thereon but has retired therefrom, and has either leased the said property or sold it under an agreement of sale, or transferred it and taken a mortgage thereon for purchase money on which payments are owing to him;

10

and includes the personal representative or representatives, son, daughter, widow or widower of a deceased resident farmer; and includes a company incorporated under any Act of the Province whose sole or main business is farming within the Province; and

“Resident home owner”

- (e) “Resident home owner” means a person who is an actual resident of and personally living in the Province of Alberta and occupies as his home any land of which he is the owner, or may be entitled to become the owner by virtue of any agreement of sale, any option to purchase, or the terms of any lease, or any tenant and includes the personal representative or representatives, son, daughter, widow or widower of a deceased resident home owner; and

20

“Sheriff”

- (f) “Sheriff” includes the deputy sheriff in a subjudicial district.

Powers of Lieutenant Governor in Council; constitution of Board;

- 3. The Lieutenant Governor in Council may from time to time—
  - (a) constitute a Board to be known as the Debt Adjustment Board, to have the general supervision and administration of this Act, consisting of either one, two or three persons, as the Lieutenant Governor may from time to time determine and prescribe the remuneration and duties of the persons appointed as the members of the Board;

officers, etc.;

30

- (b) appoint such officers, clerks and employees as may be deemed necessary who shall be under the direct control of the Board;

local committees;

- (c) appoint for any designated areas one or more committees consisting of not more than three persons for the purpose of co-operating with the Board in the administration of this Act within the designated area and prescribe the powers and duties thereof;

rules and regulations;

- (d) prescribe rules and regulations for the due administration of this Act and as to the procedure upon any proceeding under this Act, and prescribe forms, and prescribe and fix a tariff of the fees to be taken or received by

any person on account of service performed by him in the course of any such proceeding or in respect of any act or thing done by such person in pursuance of this Act;

protection  
of property

(e) protect any property seized under this Act against seizure in any other proceedings or for any other reason.

Appoint-  
ment of  
agents of  
Board and  
their  
powers

4. The Debt Adjustment Board may appoint such person or persons to act on its behalf as it deems advisable for the purpose of facilitating the administration of this Act and may, subject to the approval of the Lieutenant Governor in Council, confer upon any person or persons so appointed such powers as it may  
10 deem expedient including power to grant or refuse permits; to make compromises between creditors and debtors and to make orders or issue directions which the Board is authorized to make or issue under the provisions of this Act.

Exercise  
of powers  
of Board  
by members  
thereof

5. All the powers and authority by this Act conferred upon the Board shall be deemed to be conferred upon and shall be exercisable by every member thereof.

Inquiries  
by Board

6. The Board and any person authorized by the Board in writing may make all such inquiries as may be from time to time deemed advisable with regard to the property of any resident farmer or any resident home owner and as to the disposition of the property of any such person, and for that purpose the Board or any person authorized by the Board in writing may examine under oath any such  
20 resident farmer or resident home owner and his servants and agents, and any person who appears to the Board, or any person authorized by the Board in writing, to have any knowledge of the affairs of the resident farmer or resident home owner, and shall have all the powers in that behalf which may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*.

Board  
a body  
corporate

7. (1) The Board constituted pursuant to this Act shall be a body politic and corporate.

Powers of  
members

(2) For the purpose of performing any duty or function or exercising any power which is conferred or imposed upon the Board by this Act, any member of the Board is hereby empowered to act for and on behalf of the Board, and any  
30 act or thing so done shall be deemed to have been done by the Board.

## PART I

Restriction  
on proceed-  
ings with-  
out permit

8. (1) Unless the Board or any person designated by the Board under the provisions of this Act, issues a permit in writing giving consent thereto—

- (a) no action or suit for any legal, equitable or statutory claims, demand, debt or account or for any money demand, not being indebtedness for rates or taxes payable pursuant to any statute or debts owing to a hospital for hospital services; and
- (b) no proceedings by way of execution, attachment or garnishment; and
- (c) no action or proceeding for the sale under or foreclosure of a mortgage on land, or for cancellation, rescission or specific performance of an agreement for sale of land or for recovery of possession of land, whether in court or otherwise; and
- 10 (d) no action or proceeding to sell land under or in satisfaction of any judgment or mechanic's lien; and
- (e) no seizure or distress under an execution or under any lease or any tenancy howsoever created, lien, chattel mortgage, conditional sale agreement, crop payment agreement or in attornment as tenant under any agreement for sale or mortgage, and no sale or other proceeding thereunder either by virtue of rights of property at common law or under a statute passed prior to this Act;
- (f) no proceedings by a lessor, mortgagor, vendor or other person claiming possession of a share of crop in any case where the provisions of *The Crop Payments Act* apply; and
- 20 (g) no action respecting such other class of legal or other proceedings as may be brought within the provisions of this section by order of the Lieutenant Governor in Council—

shall be taken, made or continued by any person whomsoever against a resident farmer in any case, or against a resident home owner in case the same relate to or affect the land occupied by the home owner as his home or are for the purpose of enforcing any claim whatsoever founded on or arising out of any mortgage, charge, lien of any kind affecting the said land, or any agreement of sale, option to purchase or the terms of any lease or tenancy, however created.

30 (2) The consent of the Board under this section whenever given shall relate back to anything done in the action or other proceedings in respect of which the permit is given.

(3) This section shall not apply to any contract made or entered into by a debtor the whole of the original consideration for which arose after the first day of July, 1936.

(4) Nothing in this section shall affect any right or remedy for the enforcement of the payment of any irrigation rates or water rentals payable pursuant to any

statute or of any water rentals payable pursuant to any agreement for the supply of water for irrigating any land of a resident farmer.

(5) The Board may at any time in its discretion cancel or suspend any permit which has been previously issued under this section by the Board.

(6) The decision of the Board shall be final and there shall be no appeal therefrom.

Prohibition of grant of permit for certain proceedings leading to foreclosure affecting certain farm lands

9. No permit shall be granted in respect of any proceedings founded on any mortgage or agreement for sale of lands which are being farmed, if those proceedings lead to foreclosure merely by reason of the fact that because of the depreciation in values caused by abnormal economic conditions the security cannot for the time being be sold to realize a price which is commensurate with its fair ordinary value under normal conditions.

Proceedings on application for permit and powers of Board

10. (1) Upon the receipt of any application by or on behalf of a creditor in writing, in such form and containing such particulars as may be prescribed by the regulations for a permit to commence or continue any action or proceedings against a resident farmer or a resident home owner, the Board shall proceed to make such inquiries as it may deem proper into the circumstances, and thereupon may either issue a permit or may refuse or adjourn the application, and as a condition of the refusal or adjournment may give such directions to the resident farmer or resident home owner as to the conduct of his affairs and the disposition of his property as it deems to be in the best interests of the debtor and his creditors.

(2) The Board may require that any person deal with and dispose of any money, choses in action or property of a resident farmer or resident home owner in his hands in the manner specified in the direction, and every person having in his possession any money, choses in action or property of a resident farmer or resident home owner shall comply with any such requirement of which he has notice.

(3) Any direction given under this section shall be applicable only to so much of the money, crop, live stock and implements of the debtor as is not required for the following purposes:

30 (a) The payment of any sums necessarily borrowed, or debts necessarily incurred by the resident farmer in growing and harvesting the crop, or any sums necessarily borrowed or debts necessarily incurred by the resident farmer during the period of six months before the sale of any live stock for the purpose of feeding and preparing his live stock for the market and the provision of a sufficient amount of money for the necessary subsistence of the resident farmer and his family and for the continuance of his operations for a period of not longer than until the next ensuing harvest;



- (b) The payment of any current taxes and any instalment of consolidated arrears payable in respect of the resident farmer's property for the year in which the direction is given; and
- (c) Such other purposes as may be designated by the Lieutenant Governor in Council.

Computation of time under *The Limitation of Actions Act, 1935*

11. (1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the  
 10 time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

(2) For the purpose of this section the proceedings mentioned and described in subsection (1) of section 8 of this Act shall, in so far as a resident and a creditor of a resident are concerned, and whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said subsection (1) be  
 20 deemed to have been prohibited so long as this Act remains in force, subject to the provision contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced.

## PART II

Proceedings leading to compromise of certain indebtedness

12. Upon receipt of an application in writing by or on behalf of a resident farmer or any creditor of a resident farmer, the Board shall confer with and advise the  
 30 resident farmer or his creditor and shall endeavor to bring about an amicable arrangement for the payment of the resident farmer's indebtedness, and for that purpose the Board shall inquire into the validity of all claims made against the resident farmer and his ability to pay his just debts, either presently or in the future, and shall endeavor to effect an agreement between the resident farmer and his creditors to provide for the settlement of the resident farmer's debts, either in full or by a composition, and for the purpose of any such inquiry the Board shall have all the powers in that behalf conferred by this Act.

Agree-  
ments  
effecting  
com-  
promises

13. An agreement arrived at between the resident farmer and any creditor and made by or through the agency of the Board may be informal or by parole, or partly written and partly by parole, and may be contained wholly or in part in letters written by or to the Board and such agreement may alter, modify, or rescind in whole or in part the terms of any mortgage, contract or agreement theretofore subsisting between the parties, or by the terms of which the rights of any of the parties are affected.

Duty of  
Board in  
effecting  
com-  
promises

14. The Board shall endeavour to bring about an agreement between the resident farmer and his creditors whereby the secured or unsecured debts of the  
10 resident farmer are reduced to an amount which, in the opinion of the Board, is in accordance with the ability of the resident farmer to pay either presently or in the future, having regard to the productive capacity of the farm and equipment which the resident farmer is operating.

Powers of  
Board as to  
carrying  
out com-  
promise  
agreements

15. If an agreement is arrived at between the resident farmer and his creditors whereby the creditors agree to a reduction, compromise or composition of their claims, the Board may determine from time to time the amount and manner of payment of the indebtedness of the resident farmer to his creditors under the said agreement and may give directions accordingly and if, at the expiration of a period of time prescribed by the Board, on a further hearing, it appears that the resident farmer has not  
20 complied with the directions given, the Board may, unless in its opinion, conditions justify the default, issue a permit under Part I of this Act, at any time it deems necessary to prevent the resident farmer from defeating the claims of his creditors.

Validity of  
agreements  
effected  
pursuant  
hereto

16. Any agreement made by a resident farmer and his creditor or creditors under the provisions of this part shall be valid and binding upon the parties thereto and shall be enforceable in law although made without consideration.

### PART III

Defini-  
tions—  
“Clerk”

17. In this Part—

(a) “Clerk” means the Clerk of the District Court in the judicial district in which the debtor resides or carries on business;

“Debtor”

30

(b) “Debtor” means any person, firm or corporation other than a resident farmer as defined in this Act.

Official  
Referee

18. The Lieutenant Governor in Council may from time to time appoint a suitable person as an Official Referee for the purpose of discharging the duties hereinafter set forth.

Negotiations for agreements for payment of indebtedness and powers of Referee in relation thereto

19. Upon receipt of an application by or on behalf of a debtor or any creditor of a debtor, the Referee may confer with and advise the debtor or his creditor with a view to bringing about an amicable arrangement for the payment of the debtor's indebtedness, and for that purpose the Referee may make such inquiries as he deems necessary respecting the claims made against the debtor and his ability to pay his just debts, either presently or in the future, and shall endeavour to effect an agreement between the debtor and his creditor or creditors to provide for the extension of the time for payment of the debtor's debts or for the settlement of the debtor's debts, either in full or by a reduction or composition, and for the purposes of such  
10 inquiry, the Referee shall have all the powers in that behalf which may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*.

Certificate of Referee and its effect

20. (1) If in any particular case the Referee is of the opinion that it would not be just or reasonable for the creditors of the said debtor or any of them to take or continue proceedings which may lead to the seizure or sale of the real or personal property of the debtor, he shall file his certificate in writing to that effect with the Clerk and in that event no such proceedings shall be taken or continued against the debtor.

(2) The Referee may at any time in his sole discretion cancel any certificate issued by him by filing a notice to that effect in the office of the Clerk with whom  
20 the certificate was filed.

(3) The decision of the Referee shall be final and there shall be no appeal therefrom.

Directions by Referee

21. The Referee may from time to time give such directions as he may in his sole discretion deem proper as to the conduct of the debtor's affairs and the disposition of his property as the Referee deems to be in the best interests of the debtor and his creditors.

#### PART IV—GENERAL

Prohibition of proceedings without a permit against farmers making default in carrying out proposals under *The Farmers' Creditors Arrangement Act*.

22. In any case where a proposal has been formulated for a resident farmer pursuant to the provisions of *The Farmers' Creditors Arrangement Act*, and has  
30 been confirmed by the Board of Review under the provisions of the said Act, and the said resident farmer has failed, due to causes beyond his control, to carry out the terms of the said proposal, no creditor of the said resident farmer shall commence or continue any of the proceedings set out in section 8 hereof, unless the Board or any person designated by the Board issues a permit in writing giving consent thereto:

Non-application of section

Provided that this section shall not apply in any case where proceedings have been taken or continued against the debtor under the provisions of *The Farmers' Creditors Arrangement Act*, or *The Bankruptcy Act*, or in any case where the debtor has made a voluntary assignment under *The Bankruptcy Act*.

Invalidity of certain chattel mortgages not approved by Board

23. No chattel mortgage given by a resident farmer from and after the first day of May, 1934, to secure any past indebtedness, shall have any force or effect whatsoever unless the same has been approved in writing by the Debt Adjustment Board within sixty days next after the date of the execution thereof.

Powers of Board in respect of goods and chattels subject to mortgages

24. Upon the application of any person who is—
- (a) a resident farmer or a debtor as defined in section 17;
  - (b) the owner of any goods or chattels subject to a chattel mortgage given by him; and
  - (c) unable to provide himself with the necessities of life and/or feed for his live stock and/or seed grain otherwise than by the sale of goods and chattels or some part thereof—

the Board may make an order authorizing the applicant to sell so much of such goods and chattels as the Board deems sufficient to provide him with such necessities, feed and seed as aforesaid, which goods and chattels shall be described in the order, and upon the making of any such order the right, title and interest of the mortgagee under such chattel mortgage in the goods and chattels thereby authorized to be sold shall utterly cease and determine.

Limitation on share of crop deliverable under certain leases

25. (1) Notwithstanding anything contained in *The Crop Payments Act*, being chapter 138 of the Revised Statutes of Alberta, 1922, or in any agreement for sale or mortgage to which that Act applies or in any share crop lease collateral to such an agreement or mortgage the right of a vendor or a mortgagee or his assignee shall not in respect of a crop grown in any year subsequent to the year 1935 operate so as to make deliverable to the mortgagee or vendor more than one-third of the crop grown in any such year, less the cost of threshing attributable to one-third of the crop.

Reduction of deliverable share on payment of taxes

- 30 (2) Any purchaser or mortgagor may in any year subsequent to the year 1935 out of the share of crop deliverable to a vendor or mortgagee pay one year's taxes upon the land on which the crop is grown and in such case upon production of the receipt by the proper officer for such payment the vendor or mortgagee shall be entitled only to one-third share of the crop less the amount shown upon such receipt, and less the cost of threshing as aforesaid.

Duties  
of certain  
officials

26. Every Supreme Court Clerk and District Court Clerk and every sheriff and every Registrar of Land Registration Districts shall, without fee, perform all services required to be rendered by the Board and keep a record of every instrument filed by it in its office pursuant to this Act, and may issue certified copies thereof, and every certified copy shall be evidence of the issue and filing of such instrument without proof of the signature or official character of the officer signing the same.

Offences

27. If any person makes wilful default in complying with any order, direction or condition given by the Board, or wilfully takes or continues any action or proceeding or makes or continues any seizure, or sells or disposes of a chattel in violation of the provisions of this Act, or the regulations, or if any resident in respect of whom directions have been given in pursuance of this Act makes any disposition of anything, either real or personal property in contravention of the provisions of this Act, or makes default in complying with any directions given by the Board under the provisions of this Act, or in complying with any order, direction or condition given or imposed by the Board, then he shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars and in default of payment to a term of imprisonment with hard labour, not exceeding three months, or to both.

Evidential  
value of  
documents

28. All documents purporting to be issued in pursuance of this Act by the Board and to be signed by the Chairman or any member of the Board, shall be receivable in evidence, and shall, unless the contrary is shown, be deemed to have been so issued and signed, and it shall not be necessary to prove the handwriting or official position of the Chairman or member of the Board.

Proof of  
delivery of  
documents  
sent by mail

29. Proof that any letter or package containing any documents permitted by this Act or the regulations to be served by post was properly addressed and put into the post office, and of the time when it was so put in and of the time requisite for its delivery in the ordinary course of the post shall be evidence of the fact and time of the receipt of the letter or package by the person to whom it was addressed.

Non-  
liability of  
Board and  
members  
thereof

30. Neither the Board nor any member thereof, nor anyone acting on the instructions of the Board, or under the authority of this Act or the regulations or the Referee appointed under this Act shall be personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done, pursuant to or in the exercise or supposed exercise of the powers conferred by this Act or *The Debt Adjustment Act, 1933*, or any regulations made pursuant to either of the said Acts.

Finality of proceedings of Board and Referee

31. Every action, order or decision of the Board or the Referee as to any matter or thing, in respect of which any power, authority or discretion is conferred on the Board or the Referee under this Act shall be final and shall not be questioned, reviewed or restrained by injunction, prohibition or mandamus or other process or proceeding in any Court, or be removed by certiorari or otherwise in any Court.

Distribution of proceeds of certain executions subject to order of Board

32. (1) In case any seizure under execution is made in pursuance of any permit given under the provisions of this Act or *The Reduction and Settlement of Debts Act*, the creditors entitled to share in the proceeds of such execution shall be such persons as may be prescribed by the Debt Adjustment Board in any particular case.

10 (2) In case any property is seized or attached by virtue of any execution against a debtor who is a resident farmer issued—

(a) by a creditor to whom he is indebted under a contract made or entered into by the debtor, the whole of the original consideration for which arose after the first day of July, 1936; or

(b) by a creditor in an action brought to recover taxes or hospital accounts—the execution shall be levied on behalf of the creditor issuing the same and all other creditors to whom the debtor is similarly indebted, and for the purposes of *The Execution Creditors Act* those creditors and no other creditors shall be entitled to share in money received by the sheriff by reason of the execution.

20 (3) For the purposes of this section “execution” includes every writ of execution, writ of attachment, garnishee proceedings and proceedings in the nature of equitable execution.

Powers of Lieutenant Governor in Council as to suspension, etc., of Act

33. (1) In case the Parliament of Canada enacts legislation as to the adjustment of debts, the Lieutenant Governor in Council may for the purpose of preventing conflict between that legislation and this Act, from time to time by Proclamation published in *The Alberta Gazette*—

(a) suspend the operation of this Act or any specified part or provision or provisions thereof for a specified period or until further Proclamation; and

30 (b) declare that this Act or any specified part, provision or provisions thereof shall be no longer applicable to any specified class or classes of persons for a specified period or until further Proclamation; and

(c) cancel or vary any previous suspension or declaration.

(2) Every Proclamation shall take effect upon the publication thereof in *The Alberta Gazette* or upon such later date as may be named in the Proclamation for that purpose.

Powers of Lieutenant Governor in Council as to postponement of payment of debts, etc.;

and prohibitions and staying of proceedings in court 10

34. (1) The Lieutenant Governor in Council may, at any time and from time to time, by Proclamation published in *The Alberta Gazette*—

(a) authorize, in so far as the same may be within the legislative authority of the Province of Alberta, the postponement of the payment of all or any debts, liabilities or obligations, existing or future, however arising, or of the enforcement of all or any liens or incumbrances, or other securities, whether created before or after the coming into force of this Act;

(b) prohibit in any judicial district the issue of any process out of any one or more of the Courts of the Province in all or any classes of civil actions, or the execution of process already issued in such actions, or stay proceedings in civil actions and matters of any description pending in such Courts, or extend or otherwise vary the exemption privileges which execution debtors now enjoy.

(2) The powers conferred upon the Lieutenant Governor in Council by subsection (1) may be exercised generally or may by the terms of the order be restricted to certain designated areas within the Province, the residents of which by reason of drought, hail, frost or other adverse conditions are in need of the protection provided by this section.

Repeal of Act by Order in Council and effect of such repeal on *The Debt Adjustment Act, 1933* 20

35. The Lieutenant Governor in Council may by Proclamation at any time repeal this Act and declare that *The Debt Adjustment Act, 1933*, or any provision or provisions thereof designated thereby be in force as and from a day specified for that purpose, and thereupon *The Debt Adjustment Act, 1933*, or such of its provisions as may be designated in the Proclamation shall have and continue to have the same force and effect as the same had immediately before the coming into force of this Act; and as and from the day upon which this Act comes into force the provisions of *The Debt Adjustment Act, 1933*, shall cease to have any force and effect unless and until the same are proclaimed to be in force pursuant to this section.

Restrictions of Act to legislative competency of Province 30

36. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

Repeal

37. *The Debt Adjustment Act, 1933*, being chapter 13 of the Statutes of Alberta, 1933, is hereby repealed.

Coming into force of Act

38. This Act shall come into force on the day upon which it is assented to.

## No. 12

**The Prosperity Certificates Act  
1936**

(SECOND SESSION)

**CHAPTER 4**

**An Act respecting Prosperity Certificates**

*(Assented to September 1, 1936.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- |  |    |  |
|--|----|--|
| Short title  | 10 | 1. This Act may be cited as " <i>The Prosperity Certificates Act.</i> "  |
| Authority to issue and reissue credit certificates | 20 | <p>2. The Provincial Treasurer is hereby authorized to issue and to reissue credit certificates to any persons who may be willing to accept the same—</p> <p>(a) for goods supplied and services rendered in respect of any public work undertaken by the Government in relation to unemployment relief;</p> <p>(b) for any existing Government services;</p> <p>(c) under any agreement entered into between the Government and any city, town, village or municipal district, for the relief of unemployment under the provisions of <i>The Unemployment Relief Act, 1933</i>, or otherwise; and</p> <p>(d) for such other public expenditures as may be from time to time specified by Order of the Lieutenant Governor in Council.</p> |
| Form of Alberta Prosperity Certificates            |    | 3. Such certificates shall be known as Alberta Prosperity Certificates and shall be in such form as may be determined by Order of the Lieutenant Governor in Council and shall be in denominations of Twenty-five Cents, One Dollar and Five Dollars.  |
| Aggregate amount to be issued                      |    | 4. The aggregate amount of certificates of all denominations so to be issued shall not exceed Two Million Dollars and the amount of the certificates of any specified denomination shall be such as may be fixed by the Provincial Treasurer.  |
| Redemption   | 30 | 5. These certificates shall bear the date of issue and shall be redeemable by the Provincial Treasurer at the face value thereof upon presentation thereof to him by the bearer after the expiration of two years from the date of issue, provided that at the time of presentation there are attached to the certificate one hundred and four stamps of the nature hereinafter referred to, each stamp representing one per centum of the denomination of the certificate.  |



## Stamps

6. The Provincial Treasurer be and he is hereby authorized to issue and sell to the public adhesive certificate stamps which shall be in such form as may be determined by Order of the Lieutenant Governor in Council and which shall be in denominations of one-quarter of one cent; one and five cents, which shall be sold at the denomination value thereof.

Proceeds  
of sale of  
stamps

7. The proceeds of sales of all such certificate stamps shall be kept by the Provincial Treasurer in a special trust fund which shall be used for the purpose of redeeming the said certificates and defraying the expenses incidental to the issue of the said certificates and certificate stamps and the redemption of the said certificates,  
10 or relating thereto.

Use of  
stamps

8. The certificate stamps so issued shall be used as follows: one-quarter of one cent certificate stamps shall be used for attachment to certificates of twenty-five cent denomination; one cent certificate stamps shall be used for attachment to certificates of the one dollar denomination; five cent certificate stamps shall be used for attachment to certificates of the five dollar denomination.

Validity of  
certificates

9. At any time after the issue of any certificate and until it is redeemable, the same shall be valid only in case there shall be affixed to the certificate, certificate stamps of the proper denomination for as many full weeks as have been elapsed since the date of issue of the certificate.

Payment of 20  
face value of  
certificates

10. Notwithstanding the provisions of section 5 hereof, the Provincial Treasurer may pay out of the General Revenue Fund of the Province the face value of any valid credit certificate presented to him on the Thursday, Friday or Saturday following the second Wednesday of each month commencing with the month of September, A.D. 1936, and on the said days and dates the Provincial Treasurer may accept valid credit certificates in payment of any tax payable under the provisions of *The Ultimate Purchasers Tax Act*, being chapter 7 of the Statutes of Alberta, 1936.

Taxes pay-  
able under  
*The  
Ultimate  
Purchasers  
Tax Act*Certificates  
previously  
issued

11. All credit certificates heretofore issued in pursuance of an Order in Council dated the 11th day of June, 1936, and numbered 815/36 as amended by an Order in Council dated the 27th day of July, 1936, and numbered 1085/36, shall have the  
30 same force and effect as if the same had been issued pursuant to the provisions of this Act.

Authority  
of City to  
enter into  
agreement

12. Notwithstanding the provisions of any other Act the City of Edmonton is hereby authorized to enter into an agreement between the said City and the Province in the form set forth in the schedule to this Act and such agreement when duly

signed and executed on behalf of the City by the Mayor and City Clerk and on behalf of the Province by the Provincial Treasurer is hereby approved, ratified and confirmed.

Agree-  
ments with  
Province

13. Notwithstanding the provisions of any other Act, any city, town, village or municipal district, may enter into an agreement with the Province to purchase prosperity certificates or to accept prosperity certificates to assist in relieving distress caused through unemployment or for the relief of its indigent residents in lieu of or in addition to any moneys which may have been granted, allotted or contributed by the Province to such city, town, village or municipal district under the provisions 10 of *The Unemployment Relief Act, 1933*, or otherwise.

Use of  
certificates  
by muni-  
cipalities

14. The prosperity certificates received from the Provincial Treasurer by a city, town, village or municipal district under the provisions of this Act, may be—  
(a) paid out or expended in respect of unemployment relief, services rendered, or for any other undertaking or expenditure whatsoever; or  
(b) received by such city, town, village or municipal district in respect of any sum or sums of money owing to the city, town, village or municipal district whatsoever; or  
(c) dealt with and used in such manner and for such purposes as may be designated by the city, town, village or municipal district from time to time.

Coming  
into force  
of Act

20 15. This Act shall come into force on the day upon which it is assented to.

Schedule

SCHEDULE

MEMORANDUM OF AGREEMENT entered into this..... day of....., A.D. 1936.

BETWEEN:

THE CITY OF EDMONTON in the Province of Alberta, a municipal corporation (hereinafter called the City),

OF THE FIRST PART,

—AND—

HIS MAJESTY THE KING in the right of the Province of Alberta (hereinafter called the Province) as represented herein by the Provincial Treasurer,

30

OF THE SECOND PART.

Whereas by Order in Council numbered 1132/36 the Provincial Treasurer is authorized to issue credit certificates to cities, who may be willing to accept the same in lieu of or addition to the sums granted to cities to relieve distress caused by unemployment under the authority of Order in Council numbered 1090/36;

And whereas the City has signified its willingness to purchase prosperity certificates of the face value of \$55,000.00 with the moneys received from the Government for the month ending August 31st, 1936, under the provisions of the said Order in Council numbered 1090/36 provided the Province issues to the City additional prosperity certificates of the face value of \$30,000.00 on the terms and conditions hereinafter expressed;

Now therefore it is agreed between the parties hereto as follows:

1. The City hereby agrees to purchase from the Province prosperity certificates of the face value of \$55,000 and in consideration therefor the Province agrees to give 10 and provide the City with additional prosperity certificates of the face value of \$30,000.
2. The City further agrees that prosperity certificates of the face value of \$30,000 issued by the Province as aforesaid, will not be redeemed by the Province until after the expiration of 2 years from the date of issue and at the time of presentation there will be attached to each certificate one hundred and four one cent stamps issued pursuant to Order in Council numbered 815/36.
- 20 3. The City further agrees with the Province that it will accept from the public in payment of moneys owing to the City for utility services and such other services as may be designated by the City Council from time to time prosperity certificates to the face value of \$30,000 each and every month during the said period of 2 years from the date of issue and will place in circulation the said prosperity certificates monthly during the said period and will produce and show to a duly authorized representative of the Province evidence of the fact that the City has accepted and has placed in circulation or has in its possession certificates of the face value of \$30,000 monthly on a date (hereinafter called an inspection day) during each month to be mutually agreed upon by the parties hereto, the intention being that the said prosperity certificates of the face value of \$30,000 shall be kept in circulation by the City as aforesaid.
- 30 4. In the event of the City having in its possession or having accepted and placed in circulation prosperity certificates of the face value exceeding \$30,000 and having produced evidence to this effect on any of the inspection days mentioned in the next preceding paragraph the Government shall redeem from the City such portion of the excess of the said \$30,000 as may be represented by prosperity certificates actually in the possession of the City on any of the said inspection days and shall pay by cheque to the City the face value of the said prosperity certificates in its possession in accordance with the provisions of Order in Council numbered 1085/36, but

in the event of the City not having accepted and placed in circulation or not having in its possession prosperity certificates of the face value of \$30,000 on any of the said inspection days then the City undertakes to forthwith purchase additional prosperity certificates from the Provincial Treasurer to bring the total value of the prosperity certificates in its possession or accepted and placed in circulation up to \$30,000 on the inspection days during the said period of two years from the date of the original issue of the said prosperity certificates.

In witness whereof the corporation of the City of Edmonton has set its seal and executed this document under the hand of its proper officers duly authorized 10 in that behalf and signed on behalf of the Province of Alberta by the Honourable the Provincial Treasurer.

SIGNED AND SEALED on behalf of the City of Edmonton by the Mayor and City Clerk of the said City of Edmonton in the presence of .....  
THE CITY OF EDMONTON  
by .....  
Mayor  
.....  
City Clerk.

SIGNED on behalf of the Province of Alberta by the Honourable the Provincial Treasurer in the presence of .....  
Provincial Treasurer  
.....

## No. 13

**The Department of Trade and Industry Act Amendment Act, 1936**  
**(No. 2)**

1936

(SECOND SESSION)

## CHAPTER 9

**An Act to amend The Department of Trade and Industry Act**

*(Assented to September 1, 1936.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- Short title           1. This Act may be cited as "*The Department of Trade and Industry Act Amendment Act, 1936 (No. 2)*."
- Section 3 amended       2. *The Department of Trade and Industry Act*, being chapter 33 of the Statutes of Alberta, 1934, is hereby amended as to section 3 thereof by adding at the end thereof the following new subsection:
- Appointment and duties of agents       “(3) The Lieutenant Governor in Council may appoint suitable persons to act as agents of the Minister to carry out such duties as may be prescribed from time to time by the Minister, and in the carrying out of such duties, the agents of the Minister shall have the same powers of summoning witnesses before them, requiring 20 witnesses to give evidence on oath, and to produce documents and things as may be conferred upon Commissioners appointed pursuant to *The Public Inquiries Act*.”
- New section 12a       3. The said Act is further amended by inserting therein, immediately after section 12 thereof, the following new section:
- Price Spreads Board       “12a. (1) There shall be a Board to be styled ‘The Price Spreads Board’ to be appointed by the Lieutenant Governor in Council, consisting of not less than three nor more than five persons, one of whom shall be appointed as Chairman and each of whom shall hold office during pleasure and shall devote such time to his duties and receive such remuneration as may be prescribed by the Lieutenant Governor in Council.
- Quorum 30           “(2) A majority of the Board shall constitute a quorum thereof.
- Duties and powers of Board       “(3) The Board shall, when so directed by the Minister and may, upon its own initiative, inquire into any matter relating to the production, manufacture, supply,

distribution or sale by wholesale or retail of any goods, wares or merchandise to which this Act applies or may hereafter apply or into any matter relating to any trade or industry to which this Act applies or hereafter shall apply.

“(4) After making any such inquiry, the Board may by order fix and prescribe—

“(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

10 “(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.

Plant,  
equipment  
or other  
investment

“(5) In fixing and prescribing prices pursuant to the provisions of this section, the Board shall not be under any duty to take into account any plant, equipment or other investment of any kind which in the opinion of the Board is not for the time being reasonably required for the purposes of the particular trade or industry under review or the capital represented by any such plant, equipment or investment and in case account is taken of any such plant, equipment, investment or  
20 capital the Board may allow a return thereon at such rate as the Board may in its discretion deem proper.

Powers as  
to witnesses

“(6) The Board shall, for the purpose of making any investigation or inquiry hereunder, have the same powers of summoning witnesses before it, requiring witnesses to give evidence on oath and to produce documents and things as may be conferred upon Commissioners appointed pursuant to *The Public Inquiries Act*.

Contra-  
vention of  
section or  
orders an  
offence:  
penalty

“(7) Any person who sells or otherwise disposes of any goods, wares or merchandise or furnishes any services or does any work in contravention of any provision of any order of the Board made pursuant to this section, shall be guilty of an offence and shall be liable upon summary conviction therefor to a penalty of not  
30 more than one thousand dollars and costs per day for every day during which such goods, wares or merchandise have been so sold by him or such services furnished or such work done.”

New  
section 23a

4. The said Act is further amended by inserting therein, immediately after section 23 thereof, the following new section:

“Minister”

“23a. In this Part ‘Minister’ shall mean the Minister of Lands and Mines.”

Coming  
into force  
of Act

5. This Act shall come into force on the day upon which it is assented to.

## No. 14

**The Provincial Securities Interest Act  
1936**

(SECOND SESSION)

**CHAPTER 11**

**An Act respecting the Interest Payable on Debentures and Other Securities  
of the Province**

*(Assented to September 1, 1936.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly  
10 of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Provincial Securities Interest Act.*"

"Securities"  
defined

2. In this Act, unless the context otherwise requires, "securities" means all debentures heretofore issued by the Province, all stock heretofore issued by the Province, all treasury bills issued by the Province, all saving certificates issued by the Province and all debentures guaranteed by the Province save and except only the Seven Million, Four Hundred Thousand Dollar Five Per Centum Debentures of the Alberta and Great Waterways Railway Company.

Rate of  
interest on  
securities

3. (1) Notwithstanding any stipulation or agreement as to the rate of interest  
20 payable in respect of any security, on, from and after the first day of June, 1936, the rate at which interest shall be payable in respect of any security shall be as follows:

Where the security bears interest at the rate of six and one-half per centum, the rate of interest shall be three and one-quarter per centum;

Where the security bears interest at the rate of six per centum, the rate of interest shall be three per centum;

Where the security bears interest at the rate of five and one-half per centum, the rate of interest shall be two and three-quarters per centum;

Where the security bears interest at the rate of five per centum, the rate of interest shall be two and one-half per centum;

Where the security bears interest at the rate of four and one-half per centum,  
30 the rate of interest shall be two and one-quarter per centum;

Where the security bears interest at the rate of four per centum, the rate of interest shall be two per centum;

Where the security bears interest at the rate of three and one-half per centum, the rate of interest shall be two per centum; and

Where the security bears interest at the rate of three per centum, the rate of interest shall be two per centum.

Rights of  
security  
holder

(2) No person shall be entitled to recover in respect of any security any interest at a higher rate than the rate hereby prescribed in respect of that security, and the rights of the holder of any security shall be such as are set out in this Act and no action shall be brought or maintained in any court of the Province in respect of any such security or for the purpose of enforcing any foreign judgment founded on any such security.

Validation  
of O.C.  
734/36

4. A certain Order in Council dated the thirtieth day of May, 1936, and numbered O.C. 734/36, a copy of which is set out in the schedule hereto, is hereby confirmed, ratified and validated, and the same shall be deemed to have the same  
10 force and effect as if it had been enacted as a part of this Act.

Protection  
of  
fiduciaries

5. In case the holder of any security holds the same as a trustee or fiduciary, it shall be lawful for such holder to accept, in full satisfaction of his claim for interest on such security, interest at the rate provided by this Act or by the Order in Council hereby validated, and no action shall be brought or maintained against such holder in any court of the Province by reason of the acceptance by him of interest at the rate aforesaid in full satisfaction of the rate stipulated in respect of the security.

Coming  
into force  
of Act

6. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant Governor in Council.

20

## SCHEDULE

Schedule

Approved and Ordered,  
(Sgd.) W. L. WALSH,  
*Lieutenant Governor.*

O.C. 734/36.

Edmonton, Saturday, May 30th, 1936.

The Executive Council has had under consideration the report of the Honourable the Provincial Treasurer, dated May 30th, 1936, stating that:

Whereas the Public Accounts of the Province indicate that over a period of years, revenues of the Province have been insufficient to meet the ordinary expenditures of the Government and expenditures for Unemployment Relief; and

30 Whereas for the purpose and with the object of meeting the deficiency in revenue, existing taxes have been increased and new taxes have been imposed; and

Whereas it is evident that notwithstanding such increase in taxation the resultant revenue will prove inadequate to meet the expenditures of the Province; and

Whereas it is essential to the welfare of the Province that the policy of increasing the debt of the Province by borrowing funds for the purpose of meeting the deficiency in revenue be discontinued; and



Whereas approximately 47% of the revenue of the Province is required to provide for the payment of debt charges, and the average rate of interest on the debenture debt is 4.89 per centum; and

Whereas the essential services of Government cannot be carried on unless the rate of interest payable in respect of the debt of the Province is reduced by fifty per centum;

Therefore, upon the recommendation of the Honourable the Provincial Treasurer, the Executive Council advises that the Provincial Treasurer be and he is hereby authorized and empowered to offer and, if the offer is accepted, to  
10 pay in respect of and in full satisfaction for and discharge of any interest accruing on, from and after the first day of June, 1936, on each and every of the securities specified in Part I of the Schedule herein contained, on each of the dates subsequent to the last mentioned date upon which any such interest becomes due and payable, a sum computed at the rate set out in respect of such security in Part II of the Schedule;

The Executive Council further advises, upon the recommendation of the Honourable the Provincial Treasurer that a copy of this Order be published in *The Alberta Gazette*.

## THE SCHEDULE

### PART I

20

Securities hereinbefore referred to;  
All debentures heretofore issued by the Province;  
All stock heretofore issued by the Province;  
All treasury bills issued by the Province;  
All debentures guaranteed by the Province save and except only the \$7,400,000  
Five Per Cent Debentures of the Alberta and Great Waterways Railway  
Company;  
All Savings Certificates.

PART II

TABLE OF RATES OF COMPUTATION OF PAYMENTS IN RESPECT OF INTEREST ON THE SECURITIES MENTIONED IN PART I HEREOF

Where the Security bears interest at:	The Rate of Computation of the Payment to be made in respect of the Interest on the Security shall be:
Six and one-half per cent.....	Three and one-quarter per cent.
Six per cent.....	Three per cent.
Five and one-half per cent.....	Two and three-quarters per cent.
10 Five per cent.....	Two and one-half per cent.
Four and one-half per cent.....	Two and one-quarter per cent.
Four per cent.....	Two per cent.
Three and one-half per cent.....	Two per cent.
Three per cent.....	Two per cent.

(Sgd.) WILLIAM ABERHART,  
Chairman.

No. 15

The Municipal Securities Interest Act  
1936

20

(SECOND SESSION)

CHAPTER 12

An Act respecting the Interest Payable on the Securities of Municipalities

(Assented to September 1, 1936.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Municipal Securities Interest Act.*"

Interpreta-  
tion—  
"Muni-  
cipality"

2. In this Act unless the context otherwise requires—

(a) "Municipality" means any city, town, village, municipal district and school district;

"Security" 30

(b) "Security" means any bond or debenture issued for the purpose of securing the repayment of any moneys borrowed by a municipality under the provisions of any Act of the Province.

Rate of  
interest on  
securities

3. From and after the day upon which this Act comes into force the interest payable in respect of any security by a municipality shall not exceed three per centum per annum.

Securities  
heretofore  
issued

4. Notwithstanding any of the terms of any municipal security heretofore issued the amount of interest payable thereunder shall on, from and after the first day of September, 1936, be computed at a rate not in excess of three per centum per annum.

No judg-  
ment for  
excess

5. No judgment shall be given in any action or other proceeding in any court on account of any interest payable in respect of any security of a municipality for **10** an amount computed at any rate which is in excess of the rate hereinbefore fixed as the maximum rate payable in respect of any such security.

Coming  
into force  
of Act

6. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant Governor in Council.

## No. 16

### The Judicature Act Amendment Act, 1936 1936

(SECOND SESSION)

#### CHAPTER 16

20

#### An Act to amend The Judicature Act

(Assented to September 1, 1936.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Judicature Act Amendment Act, 1936.*"

New  
sections  
27a and 27b

2. *The Judicature Act*, being chapter 72 of the Revised Statutes of Alberta, 1922, is hereby amended by inserting therein, immediately after section 27 thereof, the following new sections:

"27a. No action shall be brought or maintained against any member of the Executive Council of the Province whereby relief of any kind is claimed on account **30** of anything done or proposed to be done or omitted to be done by him in the execution of his office unless permission to bring or maintain such action has first been given by the Lieutenant Governor in Council.

"27b. No action shall be brought or maintained whereby the relief claimed or part of the relief claimed is an injunction, mandamus, prohibition or other process or proceeding affecting or interfering directly or indirectly with the doing by any person or the omission by any person to do any act authorized or directed by a statute of the Legislature of the Province or by an Order in Council of the Province heretofore or hereafter passed or made, unless permission to bring or maintain such action has first been given by the Lieutenant Governor in Council.

Retroactive force of Act

3. This Act shall be retroactive to the first day of September, 1935.

Coming into force of Act

4. This Act shall come into force on the day upon which it is assented to.

10

No. 17

The Debt Adjustment Act, 1937  
1937

CHAPTER 9

An Act to amend and consolidate The Debt Adjustment Act, 1936

(Assented to June 17, 1937.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Debt Adjustment Act, 1937.*"

PRELIMINARY

Definitions 20

2. In this Act, unless the context requires a contrary meaning,—

"Board"

(a) "Board" means the Debt Adjustment Board constituted pursuant to this Act;

"Clerk"

(b) "Clerk" means the clerk in a judicial district and the deputy clerk in a sub-judicial district;

"Family corporation"

(c) "Family corporation" means a corporation, seventy-five per cent. of the stock of which is owned or controlled directly or indirectly by the members of one family, one or more of which members reside in Alberta and take an active part in the business operations of the corporation; or a corporation eighty per cent. of the stock of which is owned by persons actively employed in the business of the corporation or by such persons and their families;

30

"Judicial District"

(d) "Judicial district" includes a sub-judicial district;

“Resident Debtor”

(e) “Resident debtor” means a person who is a debtor and who is an actual resident of and personally living in the Province, and includes the personal representative or representatives, son, daughter, widow or widower, of a deceased resident debtor, and includes a family corporation which is a debtor and has its head office or principal place of business in the Province;

“Sheriff”

(f) “Sheriff” includes the deputy sheriff in a sub-judicial district.

Constitution of Board

10

3. The Lieutenant Governor in Council may from time to time,—

(a) constitute a Board to be known as the Debt Adjustment Board, to have the general supervision and administration of this Act, consisting of either one, two or three persons, as the Lieutenant Governor may from time to time determine and prescribe the remuneration and duties of the Persons appointed as the members of the Board;

(b) appoint such officers, clerks and employees as may be deemed necessary who shall be under the direct control of the Board;

(c) appoint for any designated areas one or more committees consisting of not more than three persons for the purpose of co-operating with the Board in the administration of this Act within the designated area and prescribe the powers and duties thereof;

20

(d) prescribe rules and regulations for the due administration of this Act and as to the procedure upon any proceedings under this Act, and prescribe forms, and prescribe and fix a tariff of the fees to be taken or received by any person on account of service performed by him in the course of any such proceeding or in respect of any act or thing done by such person in pursuance of this Act;

(e) protect any property seized under this Act against seizure in any other proceedings or for any other reason.

Agents of Board and their powers

30

4. The Debt Adjustment Board may appoint such person or persons to act on its behalf as it deems advisable for the purpose of facilitating the administration of this Act and may, subject to the approval of the Lieutenant Governor in Council, confer upon any person or persons so appointed such powers as it may deem expedient including power to grant or refuse permits; to make compromises between creditors and debtors and to make orders or issue directions which the Board is authorized to make or issue under the provisions of this Act.

Powers of Board exercisable by every member

5. All the powers and authority by this Act conferred upon the Board shall be deemed to be conferred upon and shall be exercisable by every member thereof.

Inquiries

6. The Board and any person authorized by the Board in writing may make all such inquiries as may be from time to time deemed advisable with regard to the property of any resident debtor and as to the disposition of the property of any such person, and for that purpose the Board or any person authorized by the Board in writing may examine under oath any such resident farmer or resident home owner and his servants and agents, and any person who appears to the Board, or any person authorized by the Board in writing, to have any knowledge of the affairs of the resident farmer or resident home owner, and shall have all the powers in that behalf which may be conferred upon a commissioner appointed pursuant to

10 *The Public Inquiries Act.*

Board a body corporate

7. (1) The Board constituted pursuant to this Act shall be a body politic and corporate.

Powers exercisable by members thereof

(2) For the purpose of performing any duty or function or exercising any power which is conferred or imposed upon the Board by this Act, any member of the Board is hereby empowered to act for and on behalf of the Board, and any act or thing so done shall be deemed to have been done by the Board.



PART I

Proceedings for which a permit is required

8. (1) Unless the Board or any person designated by the Board under the provisions of this Act, issues a permit in writing giving consent thereto,—

- 20 (a) no action or suit for the recovery of any money which is recoverable as a liquidated demand or debt in respect of any claim enforceable by virtue of any rule of law or equity or by virtue of any statute, except money payable in respect of rates and taxes payable pursuant to any statute, and debts owing to a hospital for hospital services; and
- (b) no proceedings by way of execution, attachment or garnishment; and
- (c) no action or proceeding for the sale under or foreclosure of a mortgage on land, or for cancellation, rescission or specific performance of an agreement for sale of land or for recovery of possession of land, whether in court or otherwise; and
- 30 (d) no action or proceeding to sell land under or in satisfaction of any judgment or mechanic's lien; and
- (e) no seizure or distress under an execution or under any lease or any tenancy howsoever created, lien, chattel mortgage, conditional sale agreement, crop payment agreement or in attornment as tenant under any agreement for

sale or mortgage, and no sale or other proceeding thereunder either by virtue of rights of property at common law or under a statute passed prior to this Act;

- (f) no proceedings by a lessor, mortgagee, vendor or other person claiming possession of a share of crop in any case where the provisions of *The Crop Payments Act* apply; and
- (g) no action respecting such other class of legal or other proceedings as may be brought within the provisions of this section by order of the Lieutenant Governor in Council,—

10 shall be taken, made or continued by any person whomsoever against a resident debtor in any case.

Relation  
back of  
consent of  
Board

(2) The consent of the Board under this section whenever given shall relate back to anything done in the action or other proceedings in respect of which the permit is given.

Applica-  
bility of  
sections

“(3) This section shall not apply to any contract made or entered into by a debtor where the whole of the original consideration for the contract arose on or after the 1st day of July, 1936; but shall apply to,—

- 20 (a) any agreement, contract, stipulation, covenant or arrangement made since that date which purports to substitute a new indebtedness in the place of any indebtedness created or arising before the 1st day of July, 1936, or has the effect of extinguishing the last mentioned indebtedness and substituting therefor a new indebtedness or constitutes a novation of the agreement under which such indebtedness was payable; and to
- (b) any guarantee whensoever made for the payment of any debt payable in respect of any contract the whole of the original consideration for which arose before the 1st day of July, 1936, or any contract mentioned in paragraph (a) of this subsection.”

Irrigation  
rates and  
water  
rentals

30 (4) Nothing in this section shall affect any right or remedy for the enforcement of the payment of any irrigation rates or water rentals payable pursuant to any statute or of any water rentals payable pursuant to any agreement for the supply of water for irrigating any land of a resident farmer.

Cancellat-  
ion by  
Board of  
permits

(5) The Board may at any time in its discretion cancel or suspend any permit which has been previously issued under this section by the Board.

Circum-  
stances  
under  
which  
permit not  
grantable

9. No permit shall be granted in respect of any proceedings founded on any mortgage or agreement for sale of lands which are being farmed, if those proceedings lead to foreclosure merely by reason of the fact that because of the depreciation in

values caused by abnormal economic conditions the security cannot for the time being be sold to realize a price which is commensurate with its fair ordinary value under normal conditions.

Proceedings  
of Board on  
creditors'  
applications  
and its  
powers

10 (1) Upon the receipt of any application by or on behalf of a creditor in writing, in such form and containing such particulars as may be prescribed by the regulations for a permit to commence or continue any action or proceedings against a resident debtor, the Board shall proceed to make such inquiries as it may deem proper into the circumstances, and thereupon may either issue a permit or may refuse or adjourn the application, and as a condition of the refusal or adjournment may give such directions to the resident debtor as to the conduct of his affairs and the disposition of his property as it deems to be in the best interests of the debtor and his creditors.

Require-  
ments by  
Board as to  
dealings  
with  
property

(2) The Board may require that any person deal with and dispose of any money, choses in action or property of a resident debtor in his hands in the manner specified in the direction, and every person having in his possession any money, choses in action or property of a resident debtor shall comply with any such requirement of which he has notice.

Directions  
in case of  
farmer  
resident  
debtors

20 (3) Any direction given under this section in respect of a resident debtor who is a farmer shall be applicable only to so much of the money, crop, live stock and implements of the debtor as is not required for the following purposes:

- 30 (a) The payment of any sums necessarily borrowed, or debts necessarily incurred by the resident farmer in growing and harvesting the crop, or any sums necessarily borrowed or debts necessarily incurred by the resident farmer during the period of six months before the sale of any live stock for the purpose of feeding and preparing his live stock for the market and the provision of a sufficient amount of money for the necessary subsistence of the resident farmer and his family and for the continuance of his operations for a period of not longer than until the next ensuing harvest;
- (b) The payment of any current taxes and any instalment of consolidated arrears payable in respect of the resident farmer's property for the year in which the direction is given; and
- (c) Such other purposes as may be designated by the Lieutenant Governor in Council.

Computa-  
tion of time  
under  
Statutes of  
Limitations

11. (1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or pre-



scribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

(2) For the purpose of this section the proceedings mentioned and described in subsection (1) of section 8 of this Act shall, in so far as a resident and a creditor of a resident are concerned, and whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said subsection (1) be  
10 deemed to have been prohibited so long as this Act remains in force, subject to the provision contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced.

## PART II

Negotiation  
of agree-  
ments for  
adjustment  
of debts

20 12. Upon receipt of an application in writing by or on behalf of a resident debtor or any creditor of a resident debtor, the Board shall confer with and advise the resident debtor or his creditor and shall endeavour to bring about an amicable arrangement for the payment of the resident debtor's indebtedness, and for that purpose the Board shall inquire into the validity of all claims made against the resident debtor and his ability to pay his just debts, either presently or in the future, and shall endeavour to effect an agreement between the resident debtor and his creditors to provide for the settlement of the resident debtor's debts, either in full or by a composition, and for the purpose of any such inquiry the Board shall have all the powers in that behalf conferred by this Act.

Agreements  
made  
through  
agency of  
Board

30 13. An agreement arrived at between the resident debtor and any creditor and made by or through the agency of the Board may be informal or by parole, or partly written and partly by parole, and may be contained wholly or in part in letters written by or to the Board and such agreement may alter, modify, or rescind in whole or in part the terms of any mortgage, contract or agreement theretofore subsisting between the parties, or by the terms of which the rights of any of the parties are affected.

Duty of  
Board in  
negotiating  
agreements

14. The Board shall endeavour to bring about an agreement between the resident debtor and his creditors whereby the secured or unsecured debts of the resident debtor are reduced to an amount which, in the opinion of the Board, is in accordance with the ability of the resident debtor to pay either presently or in the future, having regard to the productive capacity of the farm and equipment which the resident debtor is operating and the average net price of agricultural produce between the date when the debt was incurred and the date of adjustment, and in the event of the debtor not being a farmer his average income during the same period shall be considered.

Powers of  
Board  
where  
agreement  
in default

15. If an agreement is arrived at between the resident debtor and his creditors whereby the creditors agree to a reduction, compromise or composition of their 10 claims, the Board may determine from time to time the amount and manner of payment of the indebtedness of the resident debtor to his creditors under the said agreement and may give directions accordingly and if, at the expiration of a period of time prescribed by the Board, on a further hearing, it appears that the resident debtor has not complied with the directions given, the Board may, unless in its opinion, conditions justify the default, issue a permit under Part I of this Act, at any time it deems necessary to prevent the resident debtor from defeating the claims of his creditor.

Enforce-  
ability of  
agreements

16. Any agreement made by a resident debtor and his creditor or creditors 20 under the provisions of this part shall be valid and binding upon the parties thereto and shall be enforceable in law although made without consideration.

### PART III

#### PROVISIONS AS TO FARMERS

“Resident  
farmer”  
defined

17. “Resident farmer” means a person who is an actual resident of and personally living in the Province of Alberta who,—

- (i) is personally *bona fide* engaged in farming operations in the Province; or
  - (ii) being the owner of a farm property, was personally *bona fide* engaged in farming operations thereon but has retired therefrom, and has either leased the said property or sold it under an agreement of sale, or transferred it and taken a mortgage thereon for purchase money on which payments 30 are owing to him;
- and includes the personal representative or representatives, son, daughter, widow or widower of a deceased resident farmer; and includes a company incorporated under any Act of the Province whose sole or main business is farming within the Province.

Necessity for permit for proceedings where default made in carrying out proposal under "*The Farmers' Creditors Arrangement Act*"

18. In any case where a proposal has been formulated for a resident farmer pursuant to the provisions of *The Farmers' Creditors Arrangement Act*, and has been confirmed by the Board of Review under the provisions of the said Act, and the said resident farmer has failed, due to causes beyond his control, to carry out the terms of the said proposal, no creditor of the said resident farmer shall commence or continue any of the proceedings set out in section 8 hereof, unless the Board or any person designated by the Board issues a permit in writing giving consent thereto.

Non-applicability of section

10 Provided that this section shall not apply in any case where default having been made as aforesaid, proceedings have been taken or continued against the debtor under the provisions of *The Farmers' Creditors Arrangement Act*, or *The Bankruptcy Act*, or in any case where the debtor has made a voluntary assignment under *The Bankruptcy Act*.

Chattel mortgages given before 1st May, 1934

19. No chattel mortgage given by a resident farmer from and after the first day of May, 1934, to secure any past indebtedness, shall have any force or effect whatsoever unless the same has been approved in writing by the Debt Adjustment Board within sixty days next after the date of the execution thereof.

Powers of the Board as to disposal of certain encumbered chattels

20. Upon the application of any person who is,—  
 (a) a resident farmer;  
 20 (b) the owner of any goods or chattels subject to a chattel mortgage given by him; and  
 (c) unable to provide himself with the necessities of life and/or feed for his live stock and/or seed grain otherwise than by the sale of goods and chattels or some part thereof,—

the Board may make an order authorizing the applicant to sell so much of such goods and chattels as the Board deems sufficient to provide him with such necessities, feed and seed as aforesaid, which goods and chattels shall be described in the order, and upon the making of any such order the right, title and interest of the mortgagee under such chattel mortgage in the goods and chattels thereby  
 20 authorized to be sold shall utterly cease and determine.

## PART IV

### GENERAL

Share of crop deliverable under certain share crop leases

21. (1) Notwithstanding anything contained in *The Crop Payments Act*, being chapter 138 of the Revised Statutes of Alberta, 1922, or in any agreement for sale or mortgage to which that Act applies or in any share crop lease collateral to such an agreement or mortgage the right of a vendor or a mortgagee or

his assignee shall not in respect of a crop grown in any year subsequent to the year 1935 operate so as to make deliverable to the mortgagee or vendor more than one-third of the crop grown in any such year, less the cost of threshing attributable to one-third of the crop.

Reduction of share of crop deliverable on payment of certain taxes

(2) Any purchaser or mortgagor may in any year subsequent to the year 1935 out of the share of crop deliverable to a vendor or mortgagee pay one year's taxes upon the land on which the crop is grown and in such case upon production of the receipt by the proper officer for such payment the vendor or mortgagee shall be entitled only to one-third share of the crop less the amount shown upon such receipt, and less the cost of threshing as aforesaid.

Duties of Clerks of Court, Sheriffs and Registrars under Act

22. Every Supreme Court Clerk and District Court Clerk and every Sheriff and every Registrar of Land Registration Districts shall, without fee, perform all services required to be rendered by the Board and keep a record of every instrument filed by it in its office pursuant to this Act, and may issue certified copies thereof, and every certified copy shall be evidence of the issue and filing of such instrument without proof of the signature or official character of the officer signing the same.

Wilful non-compliance with orders of Board and proceedings prohibited by Act; offences

23. If any person makes wilful default in complying with any order, direction or condition given by the Board, or wilfully takes or continues any action or proceeding or makes or continues any seizure, or sells or disposes of a chattel in violation of the provisions of this Act, or the regulations, or if any resident in respect of whom directions have been given in pursuance of this Act makes any disposition of anything, either real or personal property in contravention of the provisions of this Act, or makes default in complying with any directions given by the Board under the provisions of this Act, or in complying with any order, direction or condition given or imposed by the Board, then he shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars and in default of payment to a term of imprisonment with hard labour, not exceeding three months, or to both.

penalty

Evidential value of documents issued by Board members, officers and agents

24. All documents purporting to be issued in pursuance of this Act by the Board or by any officer or agent of the Board and to be signed by the Chairman or any member of the Board or any such officer or agent, shall be receivable in evidence, and shall, unless the contrary is shown, be deemed to have been so issued and signed, and it shall not be necessary to prove the handwriting or official position of the person signing the same.

Service of  
documents  
by mail

25. Proof that any letter or package containing any documents permitted by this Act or the regulations to be served by post was properly addressed and put into the post office, and of the time when it was so put in and of the time requisite for its delivery in the ordinary course of the post shall be evidence of the fact and time of the receipt of the letter or package by the person to whom it was addressed.

Indemnifi-  
cation of  
Board, its  
members,  
officers and  
agents

26. Neither the Board nor any member thereof nor any officer or agent of the Board, nor anyone acting on the instructions of the Board, or under the authority of this Act or the regulations under this Act shall be personally liable **10** for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done, pursuant to or in the exercise or supposed exercise of the powers conferred by this Act or *The Debt Adjustment Act, 1933*, or *The Debt Adjustment Act, 1936*, or any regulations made pursuant to any of the said Acts.

Conclusive-  
ness of  
actions,  
orders and  
decisions  
of Board

27. Every action, order or decision of the Board as to any matter or thing, in respect of which any power, authority or discretion is conferred on the Board under this Act shall be final and shall not be questioned, reviewed or restrained by injunction, prohibition or mandamus or other process or proceeding in any Court, or be removed by *certiorari* or otherwise in any Court.

Distribution **20**  
of proceeds  
of execution  
levied  
pursuant to  
permit

28. (1) In case any seizure under execution is made in pursuance of any permit given under the provisions of this Act, the creditors entitled to share in the proceeds of such execution shall be such persons as may be prescribed by the Debt Adjustment Board in any particular case.

(2) In case any property is seized or attached by virtue of any execution against a debtor who is a resident farmer issued,—

(a) by a creditor to whom he is indebted under a contract made or entered into by the debtor, where the whole of the original consideration for the debt arose after the first day of July, 1936; or

(b) by a creditor in an action brought to recover taxes or hospital accounts,—  
**30** the execution shall be levied on behalf of the creditor issuing the same and all other creditors to whom the debtor is similarly indebted, and for the purposes of *The Execution Creditors Act* those creditors and no other creditors shall be entitled to share in money received by the sheriff by reason of the execution.

(3) For the purposes of this section "execution" includes every writ of execution, writ of attachment, garnishee proceedings and proceedings in the nature of equitable execution.

Powers  
of the  
Lieutenant  
Governor in  
Council in  
the event  
of the enact-  
ment by  
Canada  
of certain  
legislation

29. (1) In case the Parliament of Canada enacts legislation as to the adjustment of debts, the Lieutenant Governor in Council may for the purpose of preventing conflict between that legislation and this Act, from time to time by Proclamation published in *The Alberta Gazette*,—

- (a) suspend the operation of this Act or any specified part or provision or provisions thereof for a specified period or until further Proclamation; and
- (b) declare that this Act or any specified part, provision or provisions thereof shall be no longer applicable to any specified class or classes of persons for a specified period or until further Proclamation; and
- 10 (c) cancel or vary any previous suspension or declaration.

(2) Every Proclamation shall take effect upon the publication thereof in *The Alberta Gazette* or upon such later date as may be named in the Proclamation for that purpose.

Construc-  
tion of Act

30. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

Repeal

31. *The Debt Adjustment Act, 1936*, being chapter 3 of the Statutes of Alberta, 1936 (Second Session), is hereby repealed.

Coming  
into force  
of Act

32. This Act shall come into force on the day upon which it is assented to.

20

## No. 18

### The Alberta Social Credit Act 1937

#### CHAPTER 10

#### An Act respecting the Issuance and Use of Alberta Social Credit

(Assented to April 14, 1937.)

Preamble

WHEREAS the Province of Alberta being endowed with great natural wealth and being inhabited by a virile, intelligent and industrious people, is capable of producing in abundance, wealth both capital and consumptive, in ample quantities for the needs and advancement of its people; and

- 30 Whereas the people of Alberta, rich in natural wealth and resources both actual and potential, are yet heavily in debt and have been unable to acquire and maintain a standard of living such as is considered by them to be both desirable and possible; and

Whereas the existing means or system of distribution and exchange of wealth is considered to be inadequate, unjust and not suited to the welfare, prosperity and happiness of the people of Alberta;

Now therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title           1. This Act may be cited as "*The Alberta Social Credit Act.*"

#### DEFINITIONS

- Definitions           2. In this Act, unless the context otherwise requires,—
- "Alberta Credit"   10       (a) "Alberta Credit" means the unused capacity of the industries and people of the Province of Alberta to produce wanted goods and services;
- "Board"           (b) "Board" means the Board constituted pursuant to section 3 of this Act;
- "Commission"       (c) "Commission" means the Provincial Credit Commission constituted pursuant to section 4 of this Act;
- "Compensated Price"   (d) "Compensated Price" means the retail price of goods and services after the application of the retail discount, the amount of which discount is reimbursed to the retailer as hereinafter provided;
- "Credit House"       (e) "Credit House" means the Alberta Credit House constituted pursuant to section 19 of this Act;
- "Credit Voucher"   20       (f) "Credit Voucher" means any instrument used as evidence of disbursement of Alberta Credit in accordance with section 23 of this Act;
- "Currency"         (g) "Currency" means the current money of Canada;
- "Discount Voucher"   (h) "Discount Voucher" means any instrument used as evidence of the disbursement of the retail discount pursuant to section 15 of this Act;
- "Minister"         (i) "Minister" means the Provincial Treasurer;
- "Person entitled to Alberta Credit"   30       (j) "Person entitled to Alberta Credit" means every person of the full age of twenty-one years who is for the time being resident and domiciled in the Province, who is either,—
- (i) a British subject who has been continuously resident and domiciled in the Province since the first day of January, 1935, and continues to be resident and domiciled;
- (ii) a British subject who becomes resident and domiciled in the Province at any time after the first day of January, 1935, and continues to be so resident for at least three successive years thereafter, and supports himself for at least three successive years whilst so resident and domiciled;

- (iii) a person not being a British subject who is a resident and domiciled in the Province and who has been so resident and domiciled for five years and who has applied for naturalization as a British subject, and has supported himself for at least three successive years whilst so domiciled and resident;
- “Provincial Credit Account” (k) “Provincial Credit Account” means the money valuation of the annual unused capacity of the industries and people of the Province to produce wanted goods and services;
- “Retailer” 10 (l) “Retailer” means,—  
 (i) any person who,—  
 (a) sells by retail any goods, wares or merchandise, to persons who are the ultimate consumers thereof, for consumption or use by the purchaser and member of his family or his household;  
 (b) provides any service to persons for the benefit or enjoyment of the person who is provided therewith and the members of his family or household; and  
 (ii) any person who sells any dwelling house, whether with or without the land forming the site thereof to any person other than a person who purchases the same for resale;
- “Retail Discount Rate” 20 (m) “Retail Discount Rate” means a fractional figure to be published by the Commission, as determined by it, as hereinafter provided, to be applied as a discount on the price of goods and services offered by retailers;
- “Services” (n) “Services” means passenger 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;
- “Superintendent” (o) “Superintendent” means the Superintendent of the Credit House appointed pursuant to this Act.
- “Treasury Credit Certificates” 30 (p) “Treasury Credit Certificates” mean non-interest bearing Provincial Treasury Credit Certificates issued against the Provincial Credit account, which are to circulate throughout the branches only in settlement of inter-branch balances through clearing house associations;
- “Treasury Credit Certificate Account” (q) “Treasury Credit Certificate Account” means the system of accounting prescribed by the Commission for the purpose of enabling the Minister and the Credit House to keep proper records of the transfer of Treasury Credit Certificates used pursuant to this Act.



## PART I

Creation  
of Board

3. (1) For the purpose of this Act a Board is hereby created which shall consist of the following five persons: G. L. MacLachlan, F. M. Baker, Dr. J. L. McPherson, W. E. Hayes and S. A. Berg, of whom Mr. G. L. MacLachlan shall be Chairman and Mr. F. M. Baker shall be Secretary.

Appoint-  
ment of  
successors

(2) The successors of the said members of the Board shall be appointed from time to time by the Legislative Assembly.

Duties  
and powers  
of Board

- (3) The duties and powers of the Board shall be as follows:—
- (a) to appoint suitable persons as members of the Commission;
  - 10 (b) to appoint suitable persons as Social Credit technical experts;
  - (c) to examine Social Credit legislation and make recommendations for legislative action in respect thereof;
  - (d) to co-operate with the Commission in the performance of any of its duties and in the rendering of such assistance as may be requested by the Commission;
  - (e) to report their findings and negotiations and activities to the legislature of each Session thereof;
  - (f) to keep a record of all negotiations and transactions;
  - 20 (g) to study the economic conditions of the Province of Alberta with a view to assisting the Commission in every way possible;
  - (h) to request the Executive Council for the advice and co-operation of any Department of the Government.

Journeys  
of Board

(4) With the approval of the Lieutenant Governor in Council, the Board, or any member or members thereof selected by the Board, may visit any part of the world for the purpose of procuring prospective Commissioners or technical experts; or for the purpose of studying administration methods which might be of value to Alberta.

The Board  
a com-  
mittee for  
certain  
purposes

(5) For the purposes of section 14 of *The Legislative Assembly Act*, the Board shall be deemed to be a committee appointed by the Legislative Assembly, and every  
30 member of the Board shall be entitled to receive such sums for travelling expenses outside the Province and subsistence while performing their duties, as may pursuant to the said section be paid to members of a committee so appointed."

Supervision  
of this and  
other Acts  
by Board

(6) The Board is hereby authorized and empowered to assist in the administration of this Act and any other Acts of the Province designed to facilitate the exchange of goods and services or any proposal which is calculated to bring about the equation of consumption to production and thus ensure to the people of the Province the full benefit of the increment arising from their association.

Constitu-  
tion of com-  
mission

4. (1) To effectuate the purpose of this Act there is hereby constituted a commission which shall be a body corporate under the name "The Provincial Credit Commission", and shall be composed of not less than three nor more than five members who shall be appointed by the Board.

Term of  
office of  
Commis-  
sioner

10 (2) Each Commissioner shall hold office during good behavior for a period of ten years from the date of his appointment unless removed at any time by the Board upon address of the Legislative Assembly of Alberta.

Salaries

(3) The salaries of the Commissioners and experts, all expenses of the Commission and the experts, shall be fixed by the Board with the approval of the Lieutenant Governor in Council.

Quorum

(4) The presence of a majority of the Commission shall be necessary to constitute a quorum of the Commission.

Temporary  
appoint-  
ments

(5) In the case of death, illness or absence from Alberta of a Commissioner, or his inability to act from any cause; the Board may appoint some person to act 20 *pro tempore* in his stead, and the person so appointed shall have all the powers and perform all the duties of a Commissioner.

Vacancy on  
Commission

(6) No vacancy on the Commission shall impair the right of the remaining Commissioners to act.

#### DUTIES OF THE COMMISSION

Provincial  
Credit  
Account

5. (1) There is hereby created an account in the Treasury of the Province of Alberta to be known as the Provincial Credit Account. In the year in which this Act comes into force and every subsequent year, the Commission shall determine for each such year the value of the unused capacity of industries and people of Alberta for the production of wanted goods and services; which amount shall be credited to the 30 Provincial Credit Account. At the end of each year the amount in the Provincial Credit Account, which shall not have been drawn upon in that year shall be written off. The level of values used in determining the amount of the Provincial Credit Account shall be the same as in the determination of the retail discount rates. The decisions of the Commission and the Board as to the Provincial Credit Account shall

be final. Said decisions shall be reported by the Board to the Minister, and said reports shall be used by him as the basis for the establishment and maintenance of the Provincial Credit Account.

Determin-  
ation of  
retail  
discount  
rate

(2) The Commission shall use all reasonable ways and means to determine the retail discount rate as accurately as possible, strictly in accordance with the methods prescribed in this Act and without any extraneous influence and advice. At the discretion of the Commission the disbursement of the discounts may be limited to the amount of Discount Vouchers tendered for payment. The decisions of the Commission and the Board as to the rate of the retail discount shall be final.

Provision  
by Com-  
mission of  
advances  
of Alberta  
Credit to  
certain  
persons

10 (3) The Commission shall have authority to provide an advance of Alberta Credit to any person or persons engaged in agriculture or manufacturing or industry in the Province and to any person, persons or corporate body entitled to Alberta Credit, to defray the costs of the building of a home or for establishing or maintaining any business, vocation, calling or for public service; but no interest shall be payable in respect to any credit so provided.

Power of  
Com-  
mission

(4) The Commission is hereby authorized through the Credit House and its Branches, or other agencies, to collect tax levies; to receive and administer any securities which may be assigned to them, transfers or adjustments on account of unpaid taxes or for any purpose affecting the Provincial credit; to adjust claims,  
20 handle settlements and liquidate or adjust debts as between individuals or corporations where application for such adjustment is made to the Commission; to negotiate any transfer of Alberta Credit with any firm, person or corporate body who may be entitled to Alberta Credit and whose interests may be affected by the application of this Act.

Engage-  
ment of  
officers and  
employees

(5) The Commission shall have authority, with the approval of the Board, to employ and fix the compensation of such special examiners, statisticians, clerks and other employees as it may from time to time find necessary for the proper administration of its duties.

Statistical  
bureau

(6) The Commission shall establish and maintain a statistical bureau to  
30 collect and co-ordinate the data necessary for carrying out the provisions of this Act and shall be guided in its decisions by the facts disclosed. All statistical Departments of the Provincial Government shall furnish such aid and information as may be required by the Commission.

Statistical  
information

(7) The Commission or the Board is hereby empowered and shall have authority to require any persons to furnish such data and statistics as may be requisite in the judgment of the Commission for the carrying out of the pur-

poses of this Act; any person who makes default in furnishing any such data or statistics shall be guilty of an offence and liable upon summary conviction therefor to a fine of not more than one thousand dollars or to imprisonment for a term of not more than six months, or to both fine and imprisonment.

Reserve of  
financial  
credit

(8) 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.

Service  
charges

10 (9) The Commission shall prescribe the amount of the charges to be made by the Credit House for services in connection with the handling of the discount vouchers and credit vouchers by the Branches as prescribed in this Act.

#### INTERFERENCE WITH THE FUNCTION OF THE COMMISSION

Certain in-  
terference  
with Com-  
mission  
unlawful

6. It shall be unlawful for any person or persons,—

- (a) by force, intimidation, threat, promise or in any other manner, to prevent or attempt to prevent any member or any employee of the Commission from doing any act or thing which he is empowered or authorized to do by this Act;
- (b) to induce, or attempt to induce, any such member or employee to make any decision or order, or to take any action with respect to any matter within the authority of the Commission;
- 20 (c) to induce or attempt to induce any such member or employee to disclose any information whatever in any manner which is not expressly authorized by this Act.

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#### PART II

Issuance of  
Treasury  
Credit  
Certificates  
and their  
purpose

7. It is the intent and purpose of this Act to provide for the issue of Treasury Credit Certificates to such extent as may be requisite 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 the people of the Province for the production and delivery of wanted goods and services, which capacity is declared  
30 to be the measure of Alberta Credit.

Payment  
of extra  
provincial  
trade  
debits

8. It is the intent and purpose of this Act to provide that all extra provincial trade debits be paid in Canadian currency where it is desired by the other parties.

Accept-  
ability of  
Alberta  
Credit  
generally

9. All persons in the Province are hereby authorized to accept Alberta Credit in payment for any goods or services, or both, within the Province of Alberta, to the amount of disbursements evidenced thereby.

Satisfaction  
of claims  
against  
Govern-  
ment by  
means of  
Alberta  
Credit

10. The Lieutenant Governor in Council may, on the advice of the Board, by order, declare that all claims against the Province for the payment of any money out of any appropriation of public money made by the Legislative Assembly for the purpose of providing for the payment of 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 such person of an amount of  
10 Alberta Credit of the same amount as the amount of such grant, allowance or claim, and upon any such transfer being made, notwithstanding the provisions of any other Act or any rule of law or equity to the contrary, all the rights of such person in respect of such claim shall cease and determine, and no action or proceeding either at law or equity in respect thereof or in relation thereto shall be commenced, maintained or continued in any court of civil jurisdiction in the Province; provided that in the case of contractual obligations all parties agree to the above terms.

Accept-  
ability of  
Alberta  
Credit by  
Govern-  
ment

11. Notwithstanding the provisions of any Act, the Minister, with the approval of the Lieutenant Governor in Council, and on the advice of the Board,  
20 is hereby empowered to accept transfers of Alberta Credit in satisfaction or partial satisfaction of any claim which the Province has against any person for taxes or on any other account.

Accept-  
ability of  
Alberta  
Credit by  
municipal-  
ities

12. Notwithstanding the provisions of any Act, every corporate body which is a city, town, village, municipal district or school district is hereby empowered,—

- (a) to accept transfers of Alberta Credit in satisfaction or partial satisfaction of any claim which the corporate body has against any person for rates, taxes, services or otherwise;
- (b) to deposit any Alberta Credit or currency in the Credit House; and
- (c) to use any Alberta Credit so accepted by making transfers thereof to persons who are willing to accept Alberta Credit in satisfaction or partial  
30 satisfaction of claims against the corporate body in respect of its ordinary services or in payment of grants or the carrying out of any public work.

Avail-  
ability of  
Treasury  
Credit  
Certificates

13. Treasury Credit Certificates shall be available for providing,—

- (a) a discount on prices to consumers at retail;
- (b) Government services;

- (c) Interest free loans;
- (d) debt payments;
- (e) export subsidies;
- (f) Provincial consumers' dividend;
- (g) such other purposes as the Lieutenant Governor in Council at the request of the Board may by order so declare.

Establishment of retail discount rate

14. (1) Upon a date to be fixed by the Board, the Commission shall establish and publish a retail discount rate which shall be in force until such time as the Board shall designate.

Mode of determination

10 (2) Thereafter the retail discount rate shall be that percentage which unused productive capacity bears to total productive capacity. In determining such percentage productive capacity shall be ascertained by estimating the total capacity of the industries and people of the Province of Alberta for the production of wanted goods and services for the immediate preceding three months' period for which figures shall be available; to this shall be added an estimate of imports for the immediate preceding three months' period for which figures shall be available.

Determination of unused productive capacity

20 (3) Unused productive capacity shall be reckoned as the difference between total consumption and productive capacity. Consumption shall be ascertained by estimating actual domestic consumption of goods and services for the immediate preceding three months' period for which figures shall be available, plus the estimate of exports for the immediate preceding three months' period for which figures shall be available, plus a fixed percentage for capital depreciation, to be determined according to the estimates of the Commission. The level of values used in ascertaining consumption and productive capacity shall be the same, and as far as possible shall conform to the average of prices recorded by the Provincial Department of Trade and Industry or other official source in constructing its indices of wholesale prices.

Prerequisite for determination of retail discount rate

30 (4) No retail discount rate shall be determined and published unless productive capacity, ascertained as above prescribed, shall exceed consumption ascertained as above prescribed, by at least ten per centum.

Effect of publication

(5) The retail discount rate published by the Commission, shall be the rate determined by the Commission; provided, that the rate proclaimed shall not exceed the immediate preceding rate by a figure of more than five per centum.

Premature disclosure of retail discount rate unlawful

(6) It shall be unlawful for any person or persons to disclose the retail discount rate, or any information received or employed in connection with the determination of the retail discount rate before said rate shall have been published by the Commission. After such publication, the data used in determination of the retail discount rate shall be made a matter of public record.

APPLICATION OF RETAIL DISCOUNT RATE

Application of retail discount rate

15. (1) On, from and after a date fixed for that purpose, by the Board, the retail discount rate shall be applicable to purchases of goods and services from retailers as defined in this Act, 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.

Mode of payment of retail discount rate and evidence of its disbursement  
Discount vouchers

10 (2) The retail discount rate shall be paid in such manner as may be prescribed by the Commission, and the disbursements of the retail discount in trade shall be evidenced by suitable discount vouchers in such form as may be prescribed by the Commission.

(3) Subject to the provisions of section 17, discount vouchers shall be used in reimbursing the retailer for his disbursement of the retail discount by selling goods or services at the compensated price, and by that means provide a continuous settlement through the branches to the retailers for the disbursements of the retail discount as provided in this Act.

Contracts with Commission by retailers, wholesalers and primary producers

16. (1) Retailers, wholesalers, and primary producers are hereby authorized to make voluntary contracts with the commission under the regulations of their respective trade and professional associations,—

20 (a) in the case of retailers, in order to qualify them to dispense the retail discount and reap the benefits thereof; and

(b) in the case of the wholesalers, manufacturers and primary producers, in order to qualify them to dispense their goods and services to the retailers, and to share with them the benefits of increased trade under said regulations.

30 Every such contract shall bind the contractor to comply with such regulations as to cost accounting, fair trade practices and professional ethics as may be prescribed by said trade and professional associations or other agency or agencies authorized by law. In the case of contracts with retailers the same shall provide in each instance that the retailer, if required by the Commission, shall deal only with persons who are wholesalers, manufacturers, primary producers, and purveyors of services, who have entered into contract as aforesaid with the Commission.

Suspension or annulment of contracts

(2) The Commission may suspend or annul any such contract made as above prescribed after due notice, and opportunity for a hearing for violation of the terms or conditions thereof.

Falsification  
of accounts  
relating  
to such  
contracts an  
offence:  
Penalty

(3) Any person who knowingly falsifies or causes to be falsified any account relating to a contract with the Commission made pursuant to this section, shall be guilty of an offence and liable upon summary conviction thereof to a fine of not more than one thousand dollars, or to imprisonment for a term of not more than six months.

#### SETTLEMENT FOR DISCOUNT ALLOWANCES

Accept-  
ability of  
discount  
vouchers  
by Credit  
House

17. (1) In order to compensate retailers for their disbursements of the retail discount, the Credit House and all branches in the Province shall accept all discount vouchers evidencing the disbursement of any retail discount from the retailer making the same, and to credit the account of the retailer with the amount of such vouchers deposited by him. The amount of all vouchers so credited shall be charged to the Treasury Credit Certificate Account, and the Branches, upon application to the Credit House, shall be reimbursed for the demand of deposits allowed by them under this Act by the issuance to them of a like amount of Treasury Credit Certificates as hereinafter provided.

Service  
charges

(2) Any Branch receiving retail discount vouchers as above prescribed shall be entitled to make a service charge to the depositor for handling said vouchers, at a rate to be fixed by the Commission.

Falsifica-  
tion of  
discount  
vouchers  
an offence:

20 (3) Any person who knowingly makes a false entry on a discount voucher or who presents a false discount voucher to a branch for deposit, or any retailer who knowingly manipulates falsely his sales totals in claiming settlement of compensated price, shall be guilty of an offence and liable on summary conviction therefor to a fine of not more than one thousand dollars or to imprisonment for a term of not more than six months, or to both fine and imprisonment, and in addition, if he be a retailer the Commission may annul his contract with the Commission and may prohibit him for a period of two years from the date of his conviction from engaging in business with any retailer, wholesaler, manufacturer, or primary producer who is a party to a subsisting contract with the Commission.

Penalty

#### PROVINCIAL CONSUMERS' DIVIDEND

Consumers' 30  
dividends

18. (1) From and after a date fixed by the Board a Provincial per capita consumers' dividend shall be paid on the first day of every month during each accountancy period, to every person entitled to Alberta Credit under the provisions of this Act. The payment of the said dividend shall be administered under the direction of the Commission, and shall be made pursuant to regulations made by it. All payments of the Provincial consumers' dividend, and all expenditures in connection therewith shall be met by the issuance of Treasury Credit Certificates, as herein-



after provided. Such certificates shall be issued to Branches or other agencies designated by the Commission, and shall be accepted and dealt with by them as a treasury deposit against which credit vouchers in payment of the Provincial Consumers' dividend and all expenditures in connection therewith may be drawn.

Determina-  
tion of  
amount of  
dividend

(2) The amount of the Provincial Consumers' dividend in any accountancy period shall be determined by making it approximate such percentage of the Provincial Credit Account as may be available and not otherwise appropriated, as deemed advisable by the Commission, and said dividends shall in no case amount to less than five per centum of said account.

Dividend  
excluded  
from com-  
putation of  
certain re-  
muneration,  
pensions,  
allowances  
and grants

10 (3) No Provincial Consumers' dividend shall be deemed to form part of the income of the persons for whom the same is provided as income subject to taxation, nor shall it be regarded or taken into account in making any computation of the amount payable on account of remuneration payable to any person by the Province, or the amount payable in pursuance of any Act of the Province in the nature of pensions, allowances or grants.

Classifica-  
tion of per-  
sons entitled  
to dividends

(4) 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.

Provisions  
as to  
dividends  
for minors

20 (5) In the case of minors, special Provincial Dividend Vouchers may be issued and upon satisfactory evidence being adduced that the child's present and future interest in each case will be safeguarded, the parents jointly, or either separately, may be appointed trustees until the child reaches the age of eighteen years, whereupon he may, at will, receive his own Provincial dividends, or, in the alternative, the Commission may appoint a trustee or trustees for such minor.

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### PART III

#### CREDIT HOUSE AND CREDIT HOUSE BRANCHES

##### THE DISTRIBUTION SYSTEM

Constitu-  
tion of  
Alberta  
Credit  
House

19. To effectuate the purpose of this Act the Commission is hereby empowered to constitute a Department of Provincial Administration which shall be known as 30 the Alberta Credit House, and the same is hereby declared to be a body corporate.

Superin-  
tendent of  
Credit  
House

20. With the approval of the Board, the Commission shall appoint a Superin-  
tendent of the Credit House who shall be the chief executive officer of the Credit  
House and shall, on behalf of the Commission, have the direction and control of the

business of the Credit House with authority to act in connection with the conduct of the business of the Credit House in all matters which are not by this Act or by any regulations made pursuant hereto specifically reserved to be done by the Commission.

Location and functions of Credit House

21. The Credit House shall,—

- (a) be situated in the city of Edmonton;
- (b) be the Head Office of the Commission prescribed by this Act; and
- (c) be the agency of the Provincial Treasurer in circulating credits to effectuate the purpose of this Act.

Branch Credit Houses

22. The Credit House shall establish Branch Credit Houses (referred to in this Act as Branches) at such places within the Province of Alberta as may be required in the judgment of the Commission for carrying out the purpose of this Act.

Transfer of Alberta Credit

23. Every person to whom Alberta Credit is made available shall be entitled to transfer same by means of instruments of such nature and description as shall be prescribed by the Commission.

Transfers effective on delivery to Credit House or a branch thereof

24. Every transfer of Alberta Credit made in conformity with the purposes of this Act shall become effective upon the presentation for delivery thereof, to the Credit House or any Branch thereof.

Deposits of currency and securities

25. The Credit House, or any Branch thereof is empowered to accept deposits of currency and securities from any person and to deal with same in such manner as may be agreed upon between the Credit House and the depositor.

Principal functions of Credit House; and

26. (1) The principal function of the Credit House shall be to act in conjunction with the Provincial Treasurer and the Branches in transferring credit in the manner prescribed in this Act, and the Credit House is hereby empowered to perform that function.

Branches of Credit House

(2) The principal function of the Branches shall be to act in conjunction with the Credit House and the Public in making effective any transfer authorized by the issuance of Treasury Credit Certificates or credit vouchers; to render any service, do any act or thing consistent with carrying out the provisions of this Act; and without limiting the generality of the foregoing,—

- 30 (a) to establish credits to the account of customers, pursuant to the requirements of this Act; and
- (b) to establish Provincial Treasury credits to the account of customers against which credit instruments in payment of the Provincial Consumers' dividend may be drawn; and

- (c) to receive deposits of Credit Vouchers and of transfers of Alberta Credit made in conformity with this Act, and keep an account of all such Alberta Credit used in conformity with this Act, and keep an account of all such Alberta Credit so received, and keep an account of every transfer of Alberta Credit made by the depositors; and
- (d) to receive currency and all kinds of negotiable instruments from any persons and to convert same into Alberta Credit for an amount expressed in terms of currency, equal to the currency and negotiable instruments so received, and to make available to such persons Alberta Credit for the amount thereof.

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## PART IV

10

### TREASURY CREDIT CERTIFICATES

Issuance of  
Treasury  
Credit  
Certificates

27. (1) Subject to the provisions of section 22, the Minister shall from time to time issue through the Credit House system Treasury Credit Certificates in such denominations as may be deemed advisable by him, and in such amounts and at such times as may be required to effectuate the purpose of this Act.

(2) Notwithstanding the provisions of any Act of this Province, such Treasury Credit Certificates shall be issued to the Branches or other agencies herein provided, as authorization for the credits established pursuant to the requirements of section 13 of this Act.

Disburse-  
ment of  
Treasury  
Credit  
Certificates  
by Credit  
House  
Branches  
and  
Treasury  
Credit  
Certificates

20 28. All Treasury Credit Certificates issued by the Minister shall be disbursed by the Credit House in such amounts as shall be called for by the Branches pursuant to the provisions of this Act.

29. (1) The Branches shall furnish to the Credit House under Oath, at the time of applying for said certificates, a statement of the amounts credited under this Act.

(2) Every Branch is hereby directed to open a Treasury Credit Certificate Account and to charge this account with the face value of all certificates furnished by the Minister through the Credit House, and to credit same to its customers.

Treasury  
Credit  
Certificate  
Account

30 (3) The total amount of the new deposits shall be charged daily to the Treasury Credit Certificate Account. In turn, this amount shall be credited and the general ledger deposits account shall at all times be in balance.

Periodical settlements with Minister

(4) Settlements may be made regularly with the Minister, through the Credit House, at any convenient period, or as may be designated by the Commission. The Commission may authorize district Branches, to make settlements as its representatives.

#### CLEARING HOUSE OPERATIONS

Acceptability of Treasury Credit Certificates by Clearing House associations and others

30. (1) All Clearing House associations and all correspondents authorized to make inter-branch clearances are hereby authorized and instructed to accept Treasury Credit Certificates from any Branch in settlement of inter-branch balances, in the ratio that the amount of deposits they give rise to bears to the total deposits of the Branch tendering the Treasury Credit Certificates.

Dealings by branches with Treasury Credit Certificates

(2) Any Branch receiving said Treasury Credit Certificates in settlement of a favourable balance from its Clearing House is hereby authorized and instructed to credit its Treasury Credit Certificate Account with the amount so received and to charge its general ledger deposit account for same. In like manner, the Branch so disposing of said Treasury Credit Certificates shall credit its general ledger account and charge its Treasury Credit Certificate Account with the face value of the Treasury Credit Certificates so disposed of. Both the paying and receiving Branches shall then distribute the credits or debits to the customers entitled to them in the usual manner and shall charge or credit the Treasury Credit Certificate Account with the corresponding total.

Function of Commission as to Treasury Certificate Account

31. The Commission shall so function and administer this Act for the purpose and to the intent that the Treasury Credit Certificate Account in all Branches shall be maintained in balance at all times. It is the intent of this Act to control the volume of the means of payment for goods and services in harmony with the ability of the whole Province to produce and consume them on a rising standard of living, so that excess expansion of credit and a consequent undue advance in the price level shall not occur, and that the present system of issuing credit through private initiative for profit, resulting in recurrent deflations and inflations shall cease.

30

#### CURRENCY

Provision of legal tender by Credit House

32. (1) It is hereby enacted that the Credit House shall at all times be prepared to meet the requirements of the Branches for such currency, legal tender for all debts, public and private, as may be called for withdrawal from them by their customers.

Responsi-  
bility of  
Govern-  
ment as to  
validation  
of deposits

(2) It shall be the responsibility of the Provincial Government to see that the deposits brought into existence pursuant to this Act can be validated. The Branches shall return all currency that has been withdrawn for validation of deposits to the Credit House when redeposited excepting only such working reserves of normally circulating currency as may be required.

Accounting  
by Branches  
of currency

(3) The Branches shall furnish a strict accounting of the currency called for by their customers in excess of normal requirements for business, such as might occur in times of financial stress.

Branches  
agents for  
Credit  
House in  
validation  
of Alberta  
Credit

(4) The Branches shall act simply as agents of the Credit House in the 10 process of validating Alberta Credit with legal tender currency and no charge shall therefore be made upon either side for such service.

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## PART V

### TREASURY CREDIT CERTIFICATE FUND

Declaration  
of policy

33. In order to establish a system of circulating credit which shall at all times conform to the capacity of the industries and people of Alberta for the production of wanted goods and services; it is hereby declared to be the policy of the Legislative Assembly of Alberta to prevent the undue expansion of credit as well as to eliminate the contraction of credit in time of slackening trade. It is the true meaning and intent of this Act, whenever deemed necessary by the 20 Commission, that the controls over supply of credit through open market operations and the discount rate shall be employed as heretofore to maintain a balanced credit structure.

### ESTABLISHMENT OF A TREASURY CREDIT CERTIFICATE RETIREMENT FUND

Establish-  
ment of  
Treasury  
Credit  
Certificate  
Retirement  
Fund

34. A Treasury Credit Certificate retirement fund shall be established for the purpose of retiring from time to time as hereinafter provided, the Treasury Credit Certificates herein authorized. For the purpose of the said fund, there shall be set aside not more than one-fourth of the Provincial revenues in each fiscal year over and above the amount required to balance the normal budget estimates for that year.

## RETIREMENT OF TREASURY CREDIT CERTIFICATES

Retirement  
of Treasury  
Credit  
Certificates

35. (1) The Provincial Treasury Board shall use the Treasury Credit Certificate retirement fund or such portion thereof as shall seem to them advisable for the retirement of the said Treasury Credit Certificates, whenever in its judgment, acting upon the records of the Commission, an unduly expanded credit condition exists or is impending.

Negative  
retail dis-  
count rate

(2) If, in the opinion of the Commission, the operation of the retirement fund as above provided is insufficient in any instance to check an unduly expanded credit condition or an inflationary rise of the general price level, the Commission is authorized to establish a negative retail discount rate not to exceed ten per centum upon all goods and services. Said negative retail discount rate, whenever imposed, shall be added by the retailer to the retail price of the goods and services to consumers, and shall be reported by the retailer to his Branch, upon forms to be prescribed by the Commission, and paid to the Branch. Payments of said negative retail discount shall be credited by the Branches, as received by them to the Treasury Credit Certificate Account, and the proceeds thereof shall be applied to the cancellation or withdrawal of Treasury Credit Certificates in like amount.

Duty of  
Commis-  
sion as to  
statistics

(3) It shall be the duty of the Commission to collect and maintain all statistics and information which shall be required by the Board for the purposes of this Part.

20

## PART VI

## GENERAL PROVISIONS

Further  
powers of  
Com-  
mission

36. In addition to the specific powers conferred by this Act, the Commission shall be empowered,—

- (a) to transfer Treasury Credit Certificates in any manner consistent with the purpose of this Act;
- (b) to examine into, consider, investigate and formulate proposals having for their object the increase of the purchasing power of the consumer by means of social dividends, compensating discounts or by any other means and the payment to the producer of any commodity of a just price and the allowance to any dealer in a commodity of a fair commission on turnover, and for such purposes to ascertain all necessary facts relating thereto, and to report to the Board as to the feasibility of applying any such proposal or any modification thereof having regard to the economic circumstances of the Province and of the various businesses, industries, trades and vocations of the people of the Province;

30

(c) to inquire into and to investigate the prevailing circumstances and conditions of all or any specified businesses, industries, trades and vocations and to ascertain whether, and if so to what extent any of such circumstances and conditions, or either of them, operate to the disadvantage or detriment of the Province as a whole or to any class or category of persons in the Province, and to report thereon to the Board.

Powers of Commission and its members holding inquiries

37. The Commission and/or every member thereof, for the purpose of making any such inquiry, shall have the same power to compel the attendance of witnesses and the production of documents as may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*, and shall be entitled to examine upon oath such persons as they may in their discretion think proper.

Terms and conditions of appointments

38. Any persons appointed pursuant to this Act shall be appointed upon such terms and conditions, at such remuneration and subject to such regulations as may be prescribed by the Board.

Commissioners and other employees and *The Superannuation Act*

39. The Commissioners and employees of the Credit House or any Branch thereof, other than temporary employees shall be deemed to be employees within the meaning of *The Superannuation Act*, and shall be subject and entitled to the benefits of all the provisions of that Act.

Service charges

40. The Credit House is empowered to make such charges in respect of any service for which no charge is expressly provided by this Act in relation to any deposit of any kind made with the Credit House or any other service or facility provided by the Credit House pursuant to this Act as may from time to time be prescribed by the Commission and approved by the Board.

Acceptance of Alberta Credit dividends no disqualification for election to or membership in the Legislative Assembly

41. Notwithstanding any provision of any Act to the contrary, no person shall be subject to any disqualification as a candidate for election as a Member of the Legislative Assembly or as any Member of the Legislative Assembly by reason of his receipt for acceptance of any Alberta Credit provided for him under provision of this Act by way of any dividend or by reason of his right to receive or accept any such Alberta Credit or otherwise.

Amendment or amplification of provisions of this Act by Order in Council

42. (1) For the purpose of giving effect to the intent and purpose of this Act, upon the request of the Board the Lieutenant Governor in Council may by order in council, alter and/or supplement with new provisions any of the provisions of this Act, for the purpose of providing for matters arising out of the operation of this Act for which no expressed provision is made: Provided such change is not contrary to the policy of this Act.

Effect of  
Order in  
Council

(2) Every order in council made pursuant to this and the last preceding subsection shall be published in *The Alberta Gazette* as if it had been enacted as a part of this Act and shall take effect upon publication or upon such later dates as may be specified for that purpose.

Accounting  
by Com-  
mission

43. The Commission shall cause a true and correct record to be kept of all its business affairs and transactions and such records shall be kept in such form and manner as may from time to time be approved by the Provincial Auditor.

Audit of  
transactions  
of Credit  
House by  
Provincial  
Auditor

44. The Provincial Auditor shall at least once during each fiscal year, and whenever required to do so by the Lieutenant Governor in Council, upon the request of the Board, make an audit of the business affairs of the Credit House and shall make a report thereon to the Board and the Lieutenant Governor in Council, and a copy of every such report shall be submitted to the Legislative Assembly at the session commencing next after the making of any such report along with and as an appendix to the statement of the Public Accounts made pursuant to *The Treasury Department Act*.

Penalty for  
violations  
of Act

45. Any person or corporation who violates any provision of this Act shall be liable to a fine of not more than one thousand dollars or in default of payment to imprisonment for a term of not more than six months or both, in cases where no other punishment is provided in this Act.

Regulations  
by Com-  
mission

46. In addition to the specific powers conferred by this Act, the Commission is authorized to make such rules and regulations upon approval of the Board, as it may be necessary to carry out the provisions of this Act.

Appro-  
priation

47. The necessary moneys and/or credits for carrying out the provisions of this Act are hereby appropriated.

Prevalence  
of Act

48. Should any conflict arise between this Act and any provision of any other Provincial Act the provisions of this Act shall prevail.

Repeals

49. The following statutes are hereby repealed, namely: *The Social Credit Measures Act*, being chapter 5 of the Statutes of Alberta, 1936, and *The Alberta Credit House Act*, being chapter 1 of the Statutes of Alberta, 1936 (*Second Session*).

Continua-  
tion of Act

30 50. No provision 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 Legislative Assembly.

Coming  
into force  
of Act

51. This Act shall come into force on the day upon which it is assented to.



## No. 19

**The Provincially Guaranteed Securities Proceedings Act  
1937**

**CHAPTER 11**

**An Act respecting Proceedings in respect of Debentures Guaranteed  
by the Province**

*(Assented to April 14, 1937.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title 10      1. This Act may be cited as "*The Provincially Guaranteed Securities Proceedings Act.*"

"Guaran-  
teed securi-  
ties"

2. In this Act, unless the context otherwise requires, the expression "guaranteed securities" means any debentures which are guaranteed by the Province, save and except only an issue of debentures of The Alberta and Great Waterways Railway Company for the sum of Seven Million Four Hundred Thousand Dollars, bearing interest at the rate of five per centum per annum.

Prohibition  
of actions  
or pro-  
ceedings  
without  
consent of  
Lieutenant  
Governor  
in Council

20      3. Notwithstanding anything to the contrary in any Act or in any contract, and notwithstanding any rule of law or equity to the contrary, no action or proceeding of any kind or description shall be commenced, taken, instituted, maintained, or continued, for the purpose of the recovery of any money payable in respect of any guaranteed security, or for the purpose of enforcing any right or remedy whatsoever for the recovery of any such money, or for the purpose of enforcing any judgment or order at any time heretofore or hereafter given or made with respect to any guaranteed security, or for the purpose of enforcing any foreign judgment founded on a guaranteed security, without the consent of the Lieutenant Governor in Council.

Coming  
into force  
of Act

4. This Act shall come into force on the day upon which it is assented to.

## No. 20

**The Provincial Guaranteed Securities Interest Act  
1937**

**CHAPTER 12**

**An Act respecting the Interest Payable on Debentures or Other Securities  
Guaranteed by the Province**

*(Assented to April 14, 1937.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title 10      1. This Act may be cited as "*The Provincial Guaranteed Securities Interest Act.*"

"Guaran-  
teed  
securities"  
defined      2. In this Act, unless the context otherwise requires, the expression "guaranteed securities" means all debentures which are guaranteed by the Province save and except only an issue of debentures of The Alberta and Great Waterways Railway Company, for the sum of Seven Million, Four Hundred Thousand Dollars, bearing interest at the rate of five per centum per annum.

Rate of  
interest on  
guaranteed  
securities      3. (1) Notwithstanding any stipulation or agreement as to the rate of interest payable in respect of any guaranteed security, on, from and after the first day of June, 1936, the rate at which interest shall be payable in respect of any security  
20 shall be as follows:

Where the guaranteed security bears interest at the rate of six and one-half per centum, the rate of interest shall be three and one-quarter per centum;

Where the guaranteed security bears interest at the rate of six per centum, the rate of interest shall be three per centum;

Where the guaranteed security bears interest at the rate of five and one-half per centum, the rate of interest shall be two and three-quarters per centum;

Where the guaranteed security bears interest at the rate of five per centum, the rate of interest shall be two and one-half per centum;

Where the guaranteed security bears interest at the rate of four and one-half per  
30 centum, the rate of interest shall be two and one-quarter per centum;

Where the guaranteed security bears interest at the rate of four per centum, the rate of interest shall be two per centum;

Where the guaranteed security bears interest at the rate of three and one-half per centum, the rate of interest shall be two per centum; and

Where the guaranteed security bears interest at the rate of three per centum, the rate of interest shall be two per centum.

Rights of  
security  
holders

(2) No person shall be entitled to recover in respect of any guaranteed security any interest at a higher rate than the rate hereby prescribed in respect of that guaranteed security, and the rights of the holder of any guaranteed security shall be such as are set out in this Act.

Protec-  
tion of  
fiduciaries

4. In case the holder of any guaranteed security holds the same as a trustee or fiduciary, it shall be lawful for such holder to accept, in full satisfaction of his claim for interest on such guaranteed security, interest at the rate provided by this Act, and no action shall be brought or maintained against such holder in any court of the Province by reason of the acceptance by him of interest at the rate aforesaid in full satisfaction of the rate stipulated in respect of the guaranteed security.

Coming  
into force  
of Act

5. This Act shall come into force on the day upon which it is assented to.

## No. 21

### The Provincial Securities Interest Act, 1937 1937

#### CHAPTER 13

#### An Act respecting the Interest Payable on Debentures and Other Securities of the Province

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(Assented to April 14, 1937.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as "*The Provincial Securities Interest Act, 1937.*"

Defini-  
tion of  
"securities"

2. In this Act, unless the context otherwise requires, "securities" means all debentures heretofore issued by the Province, all stock heretofore issued by the Province, all treasury bills issued by the Province, and all saving certificates issued by the Province.

Rates of  
interest on  
securities

3. (1) Notwithstanding any stipulation or agreement as to the rate of interest payable in respect of any security, on, from and after the first day of June, 1936, the rate at which interest shall be payable in respect of any security shall be as follows:

Where the security bears interest at the rate of six and one-half per centum, the rate of interest shall be three and one-quarter per centum;

Where the security bears interest at the rate of six per centum, the rate of interest shall be three per centum;

Where the security bears interest at the rate of five and one-half per centum, the rate of interest shall be two and three-quarters per centum;

Where the security bears interest at the rate of five per centum, the rate of interest shall be two and one-half per centum;

Where the security bears interest at the rate of four and one-half per centum, the rate of interest shall be two and one-quarter per centum;

Where the security bears interest at the rate of four per centum, the rate  
10 of interest shall be two per centum;

Where the security bears interest at the rate of three and one-half per centum, the rate of interest shall be two per centum; and

Where the security bears interest at the rate of three per centum, the rate of interest shall be two per centum.

Rights of  
security  
holder

(2) No person shall be entitled to recover in respect of any security any interest at a higher rate than the rate hereby prescribed in respect of that security, and the rights of the holder of any security shall be such as are set out in this Act.

Protec-  
tion of  
fiduciaries

4. In case the holder of any security holds the same as a trustee or fiduciary, it shall be lawful for such holder to accept, in full satisfaction of his claim for interest  
20 on such security, interest at the rate provided by this Act, and no action shall be brought or maintained against such holder in any court of the Province by reason of the acceptance by him of interest at the rate aforesaid in full satisfaction of the rate stipulated in respect of the security.

Repeal

5. *The Provincial Securities Interest Act*, being chapter 11 of the Statutes of Alberta, 1936 (Second Session), is hereby repealed.

Coming  
into force  
of Act

6. This Act shall come into force on the day upon which it is assented to.

## No. 22

**The Postponement of Debts Act  
1937**

**CHAPTER 30**

**An Act to provide for the Postponement of the Payment of  
Certain Indebtedness**

*(Assented to April 14, 1937).*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- |   |           |   |
|---|-----------|---|
| Short title                             | <b>10</b> | 1. This Act may be cited as " <i>The Postponement of Debts Act.</i> "   |
| Power of Lieutenant Governor in Council | <b>20</b> | 2. The Lieutenant Governor in Council may, at any time and from time to time, by order,—  |
| Postponement of payment of debts        | <b>20</b> | (a) provide for the postponement until after a day fixed thereby of the payment of all debts, liabilities and obligations, to which the legislative power of the Province extends, whether existing or future and howsoever arising; or such classes, kinds or descriptions thereof as are specified in the order; or all or any of such debts, liabilities and obligations except such as may be specified therein; and also the enforcement of all or any securities and remedies for the payment of such debts, liabilities or obligations, whether created before or after the coming into force of this Act; |
| Prohibition of issuance of processes    | <b>20</b> | (b) prohibit until after a day fixed thereby the issue of processes out of all the Courts of the Province or out of any Courts specified therein, either generally or in such judicial districts as are specified therein, in all or any specified classes of civil actions, and the execution of all or any processes issued in such actions;  |
| Staying of proceedings                  | <b>30</b> | (c) stay until after a day fixed thereby proceedings in all civil actions and matters, or such specified classes, kinds or descriptions thereof, as may be specified therein, for the time being pending in all the Courts of the Province specified therein, either generally or in any such judicial districts as may be specified therein.   |
| Publication of orders                   | <b>30</b> | 3. Every order made pursuant to this Act shall be published in <i>The Alberta Gazette</i> , and shall take effect upon such publication or upon such later date as may be fixed by the order for that purpose.  |

Force and  
effect of  
orders

4. Every order made pursuant to this Act shall have the same force and effect as if the same had been enacted as a part of this Act.

Postponed  
date for  
payment  
the due  
date for  
payment

5. (1) Notwithstanding any rule of law or equity or the provisions of any statute or any agreement, contract, covenant or stipulation, whether express or implied to the contrary, upon the making of any order for postponing the payment of any debts, the due date for the payment of any debt the payment of which is postponed by any order made pursuant to this Act, shall be postponed until the day after the day upon which such order ceases to be in force; and

Term  
implied in  
contracts

(2) It shall be an implied term of every contract or agreement by virtue of which a debt the payment of which is postponed by any order made pursuant to this Act is payable, whether the contract or agreement is in writing or not, that the day on which any such debt shall be payable shall be the day after the day upon which such order ceases to be in force, or the day fixed for payment by the contract or agreement, whichever day is the later.

Computa-  
tion of  
time under  
Statutes of  
Limitations

6. Any time during which the payment of a debt is postponed pursuant to any order made pursuant to this Act shall not be included in the time within which any action or other proceeding is to be commenced under *The Limitations of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

Repeal

7. *The Debt Adjustment Act, 1936*, being chapter 3 of the Statutes of Alberta, 1936 (Second Session), is hereby amended by repealing section 34 thereof, the provisions of this Act being substituted therefor."

Coming  
into force  
of Act

8. This Act shall come into force on the day upon which it is assented to.

No. 23

The Prosperity Certificates Act Amendment Act, 1937  
1937

CHAPTER 83

An Act to amend The Prosperity Certificates Act

(Assented to June 17, 1937.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title.

1. This Act may be cited as "*The Prosperity Certificates Act Amendment Act, 1937.*"

2. *The Prosperity Certificates Act*, being chapter 4 of the Statutes of Alberta, 1936 (Second Session), is hereby amended by inserting therein immediately after section 10 the following new section:

New section 10a  
Redemption of Prosperity Certificates

"10a. Notwithstanding any other provisions of this Act, at any time at which it is deemed expedient to discontinue the issuance of credit certificates and the circulation of such certificates theretofore issued, the Lieutenant Governor in Council may authorize the Provincial Treasurer to pay out of the General Revenue Fund the face value of any valid certificate upon the presentation thereof, and may prescribe the number of stamps which shall be affixed to each certificate at the date of such presentation."

Coming into force of Act and retro-activity thereof

3. This Act shall come into force on the day upon which it is assented to and upon so coming into force shall be deemed to have been in force at all times from and after the first day of May, 1937.

## No. 24

**The Credit of Alberta Regulation Act  
1937**

(SECOND SESSION)

## CHAPTER 1

**An Act to provide for the Regulation of the Credit of the Province of Alberta***(Assented to August 6, 1937.)*

WHEREAS Bank Deposits and Banks Loans in Alberta are made possible mainly or wholly as a result of the monetization of the credit of the People of Alberta, 10 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

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.

NOW, THEREFORE, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- 20 1. This Act may be cited as "*The Credit of Alberta Regulation Act.*"

## DEFINITIONS

2. Under this Act unless the context otherwise requires:—
- (a) "Banker" means a person or corporation whose business or any part of whose business is the business of banking;
- (b) "Business of Banking" means the receipt of money on current or deposit or savings account, the payment and collection of cheques drawn by, or paid in by, customers, the making of advances or the granting of overdrafts to customers;
- (c) "Local Directorate" means a Local Directorate constituted pursuant to section 4 of this Act;
- 30 (d) "Provincial Credit Commission" means the Commission constituted pursuant 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*.

3. (1) Every Banker who at the time of the coming into force of this Act is carrying on the business of banking within the Province shall, within twenty-one days thereafter, apply for and obtain a licence from the Provincial Credit Commission in respect of such business, and every such application shall be accompanied with the fee provided for the licence so applied for.

(2) Every person employed by a Banker carrying on the business of banking within the Province, shall within twenty-one days of the coming into force of 10 this Act, apply individually for and obtain from the Provincial Credit Commission a licence to carry on the business of Banking, or any function or functions thereof, and any such application shall be supported by a recommendation of the Local Directorate or the person in charge of the business where applicant is employed and in the locality where the applicant is employed; and every such application shall be accompanied with the fee prescribed for the licence applied for.

(3) Every licence issued under this Act shall expire at midnight on the thirty-first day of March of the calendar year following the year in which it is issued or at such other time as the Provincial Credit Commission may by regulation determine.

20 (4) Every application for a licence by any Banker carrying on the business of banking or any function or functions thereof within the Province, and every application for a licence by any employee of a Banker shall 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, and in the case of a Banker, the application for a licence shall be accompanied with the names of the two representatives of such Banker as members of the Local Directorate.

(5) The Provincial Credit Commission may at any time or from time to time 30 and without notice, suspend, revoke or cancel the licence of any Banker or any employee of a Banker who commits a breach of the undertaking referred to in subsection (4) of this section.

(6) Any Banker and any employee of a Banker whose licence has been suspended, revoked or cancelled by the Provincial Credit Commission, shall have a right of appeal to the Social Credit Board, but such right shall not extend to any person or corporation convicted in the courts of the Province for acting or assist-

ing or encouraging any person or persons to act in a manner which restricts or interferes with the property or civil rights of any person within the Province.

(7) There shall be paid to the Provincial Credit Commission for the use of the Province annually a licence fee in such amount as may be fixed by the Provincial Credit Commission not exceeding:

(i) in the case of a Banker an amount equivalent to \$100 in respect of every building within the Province in which the business of such bank is conducted;

(ii) in the case of an employee of a Bank \$5.

10 (8) If the licence of any Banker or person employed by a Banker has been suspended, revoked or cancelled under section 3, subsection (6) of this Act, the Provincial Credit Commission may fix a fee in excess of the fee provided in Section 3 subsection (7) of this Act, 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.

4. (1) Immediately after application has been made for a licence by any Banker, and before the issue of the licence, one or more Local Directorates (the number of which shall be in the absolute discretion of the Social Credit Board) 20 shall be appointed to supervise, direct and control the policy of the business of the Banker in respect of which such Local Directorate has been appointed for the purpose of preventing any act by such Banker or any employee or employees thereof constituting a restriction or interference, either direct or indirect, with the full enjoyment of property and civil rights by any person within the Province.

(2) Each Local Directorate shall consist of five persons, three of whom shall be appointed by the Social Credit Board, and two of whom shall be appointed by the Banker in respect of which the Local Directorate has been appointed.

(3) The Social Credit Board may at any time for any cause which it deems sufficient, dismiss any member of the Local Directorate appointed by such Board 30 and appoint another person to fill the vacancy.

(4) Members of a Local Directorate appointed by the Social Credit Board shall hold office during the pleasure of the Board; and members of such directorate appointed by a Banker shall hold office during the pleasure of such Banker.

(5) Where a vacancy occurs in a Local Directorate the vacancy may be filled by the Social Credit Board if the member in respect of whom the vacancy occurs

was appointed by that Board, and if the member in respect of whom the vacancy occurs was appointed by a Banker, then by the Banker who appointed such member.

(6) Members of Local Directorates appointed by the Social Credit Board shall receive such remuneration as may be from time to time fixed by the Board with the approval of the Lieutenant Governor in Council, and such remuneration shall be paid out of such monies as are appropriated by the Legislative Assembly for the purpose.

5. Any Banker which carries on the business of banking in the Province of  
10 Alberta without having first obtained a licence under the provisions of this Act or which violates any other provisions of this Act or the regulations made hereunder, shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than five thousand dollars and not more than ten thousand dollars and costs.

6. Any employee of a Banker who carries on the business of banking in the Province of Alberta or any function or functions thereof without having first obtained a licence under the provisions of this Act or who violates any other provision of this Act or the regulations made hereunder, shall be guilty of an offence  
20 and shall be liable on summary conviction to a fine of not less than one hundred dollars and not more than one thousand dollars, and in default of payment to imprisonment for a term of not more than one year.

7. (1) Any Banker required to be licensed by this Act shall not, while unlicensed, be capable of commencing or maintaining any action or other proceeding in any court in the Province in respect of any claim, in law or in equity.

(2) The Lieutenant Governor in Council may by proclamation, declare that as and from a date named therein, this section shall cease to have any force and effect and shall stand repealed.

8. Should any conflict arise between this Act and any provisions of any other Provincial Act, the provisions of this Act shall prevail.

30 9. No provision 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 Legislative Assembly.

10. With the approval of the Lieutenant Governor in Council, the Provincial Credit Commission may make regulations not inconsistent with this Act,—

- (a) prescribing the rules of procedure in respect of applications for licences and other proceedings under this Act;
- (b) prescribing the forms for licences and application for licences and the manner governing such applications;
- (c) prescribing the forms and procedure for taking an appeal from the Provincial Credit Commission to the Social Credit Board under this Act;
- 10 (d) classifying licences and licensees and prescribing and regulating the fees including methods of ascertaining or calculating or determining the fees to be paid for licences;
- (e) prescribing the privileges, terms, conditions, limitations and restrictions to be granted to or observed by any licensee;
- (f) prescribing the conditions upon which licences may be issued and providing for the revocation, suspension or withholding of licences;
- (g) for the collection of the licence fees, designating the persons by whom the same shall be collected;
- (h) generally for the better carrying out of the purposes of this Act.

11. This Act shall come into force on the day upon which it is assented to.

20

## No. 25

### The Bank Employees Civil Rights Act 1937

(SECOND SESSION)

#### CHAPTER 2

**An Act to provide for the Restriction of the Civil Rights of Certain Persons**

*(Assented to August 6, 1937.)*

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

- 30 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

Whereas it is expedient that the business of Banking in the Province shall be controlled with the object of attaining for the People of Alberta the full enjoyment of property and civil rights in the Province;

Now, therefore, His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Alberta enacts as follows:

1. This Act may be cited as "*The Bank Employees Civil Rights Act.*"
2. In this Act unless the context otherwise requires,—
  - (a) "Banker" means a person or corporation whose business or any part of whose business is the business of banking;
  - 10 (b) "Business of Banking" means the receipt of money on current or deposit or savings account, the payment and collection of cheques drawn by or paid in by customers, the making of advances or the granting of overdrafts to customers.
3. Any person who is an employee of a banker and who is required to be licensed pursuant to any provision of "*The Credit of Alberta Regulation Act*" shall not while unlicensed for any reason whatsoever, be capable of bringing, maintaining or defending any action in any Court of Civil Jurisdiction in the Province which has for its object the enforcement of any claim either in law or equity.
4. This Act shall come into force upon a date to be fixed by Proclamation of the  
20 Lieutenant Governor in Council.

## No. 26

### The Alberta Social Credit Act Amendment Act, 1937 1937

(SECOND SESSION)

#### CHAPTER 3

#### An Act to amend The Alberta Social Credit Act

*(Assented to August 6, 1937.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

- Short title 30      1. This Act may be cited as "*The Alberta Social Credit Amendment Act, 1937.*"

Section 2  
amended

2. The Alberta Social Credit Act, being chapter 10 of the Statutes of Alberta, 1937, is hereby amended as to section 2 thereof,—

- (a) by inserting therein after the last word of paragraph (c) the words “and shall include ‘The Temporary Provincial Credit Commission’ constituted pursuant to section 3a of this Act.”;
- (b) by inserting therein immediately after paragraph (n) the following new paragraph:

“Social  
Credit”  
defined

10

“(n) ‘social credit’ is the power resulting from the belief inherent within society that its individual members in association can gain the objectives they desire;”.

Section 3  
amended

3. The said Act is further amended as to section 3 thereof,—

- (a) by striking out paragraph (a) of subsection (3) and by substituting therefor the following:

“(a) to appoint suitable persons as members of the Temporary Commission and suitable persons as members of the Commission;”;

- (b) by inserting therein immediately after subsection (6) the following new subsections:

Further-  
ance of  
social credit  
in Province  
by Board

20

“(7) It shall be the function of the Board, and it is hereby 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 for that 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.

Appoint-  
ment of  
members of  
Board to  
Temporary  
Commis-  
sion

“(8) The Board may appoint as a member of the Temporary Commission any person who is a member of the Board, but any member of the Board so appointed shall not receive any remuneration for his services as a member of the Temporary Commission.”

New  
section 3a

30

4. The said Act is further amended by inserting therein immediately after section 3 the following new section:

Temporary  
Provincial  
Credit  
Commis-  
sion

“3a.—(1) Until such time as a Commission is appointed pursuant to section 4, the Board may appoint a Temporary Commission and the Temporary Commission so appointed shall be a body corporate under the name ‘The Temporary Provincial Credit Commission’ and such Temporary Commission

shall be composed of not fewer than three nor more than five members who shall be appointed by the Board and shall hold office during the pleasure of the Board and shall receive such remuneration, if any, as may be fixed by the Board with the approval of the Lieutenant Governor in Council, and shall have all the duties and powers which are by this Act imposed or conferred upon the Commission constituted pursuant to section 4.

Duration

“(2) Upon the constitution of The Provincial Credit Commission pursuant to section 4, The Temporary Provincial Credit Commission shall cease to exist and its powers and duties shall be at an end.”

Section 4 amended

10 5. The said Act is further amended as to section 4, by striking out the words “To effectuate the purpose of this Act there is hereby constituted a Commission” where the same occur in subsection (1) and by substituting therefor the words “To effectuate the purpose of this Act there shall be constituted at such time as the Board fixes for the purpose a Commission”.

Coming into force of Act

6. This Act shall come into force on the day upon which it is assented to.

## No. 27

### The Treasury Department Act Amendment Act, 1937 1937

(SECOND SESSION)

20

#### CHAPTER 4

#### An Act to amend The Treasury Department Act

(Assented to August 6, 1937.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title

1. This Act may be cited as “*The Treasury Department Act Amendment Act, 1937*”.

Section 19 amended

2. The Treasury Department Act, being chapter 12 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 19 by striking out the words “in such chartered bank as the Lieutenant Governor in Council may appoint” and by substituting therefor the words “in such chartered bank or other institution in the  
30 Province as the Lieutenant Governor in Council may appoint”.

Section 30  
repealed  
and sub-  
stituted

3. The said Act is further amended as to section 30 by striking out the same and by substituting therefor the following:

10 “30. In the case of public moneys deposited in a chartered bank, all disbursements thereof shall be made by official cheque signed by or on behalf of the Provincial Treasurer and countersigned by or on behalf of the Auditor as hereinafter provided; and in the case of all public moneys deposited in any other institution, all disbursements thereof shall be made by such official instrument as may be prescribed by the Lieutenant Governor in Council, which instrument shall be signed by or on behalf of the Provincial Treasurer and countersigned by or on behalf of the Auditor, as is hereinafter provided in the case of a cheque on a chartered bank.”

Coming  
into force  
of Act

4. This Act shall come into force on the day upon which it is assented to.

No. 28

The Judicature Act Amendment Act, 1937  
1937

(SECOND SESSION)

CHAPTER 5

An Act to amend The Judicature Act

(Assented to August 6, 1937).

20 HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:—

1. This Act may be cited as “*The Judicature Act Amendment Act, 1937 (Second Session)*.”

2. *The Judicature Act*, being chapter 72 of the Revised Statutes of Alberta, 1922, is hereby amended by inserting therein immediately after section 27*b* the following new section:—

30 “27*c*. No action or proceeding of any nature whatsoever concerning the constitutional validity of any enactment of the Legislative Assembly of the Province shall be commenced, maintained, continued or defended, unless and until permission to bring or maintain or continue or defend such action has first been given by the Lieutenant Governor in Council.”

3. This Act shall come into force on the day upon which it is assented to.



## No. 29

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

*(Alberta Gazette, Volume 33, No. 18,  
September 30, 1937, pp. 960-961.)*

## THE JUDICATURE ACT, 1922

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10 THE CONSOLIDATED RULES OF THE SUPREME COURT  
AMENDED

EDMONTON, FRIDAY, September 24, 1937.

His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has been pleased to order (pursuant to the provisions of Section 38 of The Judicature Act, being Chapter 72 of the Revised Statutes of Alberta, 1922), that the Consolidated Rules of The Supreme Court, be, and are hereby, amended by inserting therein, immediately after Rule No. 6, the following new Rules:—

20 “6a. Notwithstanding the provisions of any other Rule, the Clerk of the Court or Registrar of the Supreme Court shall not, unless and until authorized so to do by the Lieutenant Governor in Council, file or enter, or permit to be filed or entered, any Statement of Claim, Petition, Originating Notice, Statement of Defence, Counter Claim, Reply, Record, Notice of Motion, Notice of Appeal, or any other Notice, pleading or proceeding of any nature whatsoever, which contains any allegation, statement or prayer which in any manner questions or contests the constitutional validity of any Act of the Legislature of the Province of Alberta, or any Regulation or Order made thereunder, or of any Rule of Court made pursuant to the provisions of The Judicature Act (being Chapter 72 of the Revised Statutes of Alberta, 1922). This Rule shall come into force on the 25th

30 day of September, 1937.

“6b. Notwithstanding the provisions of any other Rule, a judgment or Order shall have no force or effect whatsoever unless and until the said judgment or Order shall have been entered and issued by the Clerk or Registrar of the Supreme Court. This Rule shall come into force on the 25th day of September, 1937.

“6c. Notwithstanding the provisions of any other Rule, the Clerk of the Court or Registrar of the Supreme Court shall not, unless and until authorized so to do by the Lieutenant Governor in Council, enter or permit to be entered, any judgment or Order which either expressly or by necessary implication declares any Act of the Legislature of the Province of Alberta, or any Regulation or Order made thereunder, or any Rule of Court made pursuant to the provisions of The Judicature Act (being Chapter 72 of the Revised Statutes of Alberta, 1922), to be invalid. This Rule shall come into force on the 25th day of September, 1937.”

10 Further, that Orders in Council numbered 1060-37, 1063-37 and 1069-37 be, and are hereby, repealed.

(O.C. 1110-37)

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

### No. 30

## The Debt Adjustment Act, 1937 Amendment Act, 1937

### CHAPTER 2

#### An Act to amend The Debt Adjustment Act, 1937

*(Assented to Oct. 5th, 1937.)*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly  
20 of the Province of Alberta, enacts as follows:

1. This Act may be cited as “*The Debt Adjustment Act, 1937, Amendment Act, 1937.*”

2. *The Debt Adjustment Act, 1937*, being chapter 9 of the Statutes of Alberta, 1937, is hereby amended by striking out so much of section 3 as precedes paragraph (b) and by substituting therefor the following:

“3. There is hereby constituted a Board to be known as ‘The Debt Adjustment Board’ consisting of either one, two or three members as the Lieutenant Governor in Council may from time to time determine, and the Lieutenant Governor in Council may from time to time:

30 “ (a) appoint such person or persons as members of the Board as may be deemed advisable, and prescribe the remuneration and duties of persons appointed as members of the Board;”.

3. The said Act is further amended as to section 18 thereof:

(a) by striking out the words "due to causes beyond his control" where the same occur therein; and

(b) by striking out all the words commencing with the words, "Provided that this section" and ending with the last word of the section.

4. The said Act is further amended by inserting therein immediately after section 20 the following new section:

"20a. Upon the application of any person who is:

"(a) a resident farmer; and

10 "(b) the lessee of any land under a crop share lease entered into for the purpose of securing the payment of any money payable in respect of the land thereby leased under any mortgage, charge or agreement for sale respecting such land; and

20 "(c) the share of crop to which he is entitled as lessee together with all other crops owned by him is such that he is unable to provide himself with the necessities of life and/or feed for his live stock and/or seed grain, otherwise than by the sale of farm machinery and live stock reasonably necessary for the working of his land, or by the sale of goods and chattels which are exempt from seizure under execution pursuant to The Exemptions Act,—

"the Board may make an order authorizing the applicant to retain for his own use so much of the share of crop which is deliverable to the lessor as the Board in its discretion considers sufficient to provide the applicant with such necessities and/or feed and/or seed grain; and upon any such order being made the share of crop deliverable to the lessor for the year to which the order relates shall be reduced by the amount which the lessee is by the order authorized to retain."

5. Every Order in Council constituting any Debt Adjustment Board heretofore made in pursuance of any provisions of *The Debt Adjustment Act, 1931*, or *The Debt Adjustment Act, 1933*, or *The Debt Adjustment Act, 1936*, is each here-  
30 by confirmed, ratified and validated, and every constitution of a Board so made shall as and from the date of the Order in Council constituting that Board be as good, valid and effectual as if the same had been made by an Act of the Legislature.

6. This Act shall come into force on the day upon which it is assented to.

## No. 31

**The Licensing of Trades and Businesses Act, 1937**

## CHAPTER 1

**An Act to amend and consolidate The Licensing of Trades and Businesses Act**

(Assented to October 5, 1937.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Licensing of Trades and Businesses Act, 1937.*"
- 10 2. The Minister of Trade and Industry (hereinafter in this Act referred to as the "Minister"), shall be charged with the administration of this Act.
3. (1) This Act shall apply to all trades, businesses, industries, employments and occupations (hereinafter called "businesses") which are carried on in the Province and to which the powers of the Legislative Assembly extend, except businesses which are for the time being licensed pursuant to The Fuel Oil Tax Act, The Government Liquor Control Act of Alberta, The Theatres Act or The Billiard Room Act, nor shall it apply to any professions or callings to which any of the following Acts apply, namely, The Alberta Architects Act, The Alberta Land Surveyors Act, The Alberta Pharmaceutical Association Act, The Chiropractic Act, The  
20 Chiropody Act, The Dental Association Act, The Engineering Profession Act, The Legal Profession Act, The Medical Profession Act, The Optometry Act, The Registered Nurses Act, The Teaching Profession Act and The Veterinary Act, nor to any business subject to the control of the Board of Public Utility Commissioners, nor shall it apply to the occupation of a farmer, a rancher, a farm labourer, a domestic servant or an unskilled labourer, nor to any business which is for the time being exempted from the operation of this Act by order of the Lieutenant Governor in Council.
- (2) The Lieutenant Governor in Council may from time to time exempt any  
30 Act until further order.

4. The Minister may from time to time, by order,—

- 10 (a) designate any business or any description or class of any business as a business or a description or class thereof to which this Act applies, and to except from any business or any description or class of any business so designated any specified class or subclass of any business or any class or subclass of persons engaged or employed therein;
- (b) provide for the registration of all persons engaged in or employed in any business or any description or class thereof so designated, and prohibit the carrying on of that business by any person who is required to be registered and who is not so registered;
- (c) 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;
- 20 (d) provide that any person required to be registered or licensed in respect of any business or any description or class thereof, shall be registered or licensed as the case may be, in respect of each additional business or description or class thereof carried on by him and in respect of each separate place at which he carries on such business or such description or class thereof, and prohibit the carrying on by such person of the additional business without being so registered or licensed, and prohibit the carrying on of a business or any description or class thereof at any place in respect whereof such person is not so registered or licensed, as the case may be;
- (e) prescribe as to the duration of any licence, the form of and mode of issuing any licence and the renewal thereof;
- (f) prescribe the fees payable upon any registration in respect of any business or any description or class thereof and the fees payable upon the issue of any licence and any renewal thereof, and in so doing may prescribe different fees in respect of different businesses and different descriptions or classes thereof; provided always that the fee payable on any registration or for 30 any licence shall not exceed, in the case of a natural person who acts as the agent or representative of any body corporate the sum of three hundred dollars; in the case of any other natural person the sum of one hundred dollars and in the case of any corporate body the sum of one thousand dollars.
- (g) make such rules and regulations as to the forms to be used and procedure to be followed in relation to any of the matters aforesaid.

5. Every person who is required to be registered or to be licensed in respect of any business or any description or class thereof pursuant to any order of the Minister made pursuant to this Act and who carries on or engages in such business or such description or class thereof without being so registered or licensed as the case may be, shall, if a body corporate incur a penalty not exceeding one hundred dollars for every day during which such person carries on or engages in such business whilst so unregistered or unlicensed and if any other person, shall incur a penalty not exceeding twenty-five dollars for every day during which such person carries on business whilst so unregistered or unlicensed; and all such penalties shall be  
10 recoverable by action brought on behalf of the Crown by the Minister in any Court of competent jurisdiction as a debt due to the Crown.

6. Every person who contravenes any of the regulations passed pursuant to this Act, shall be guilty of an offence and shall be liable on summary conviction, in case the offender is a body corporate to a fine of not more than two hundred dollars and costs, and in any other case to a fine of not more than fifty dollars and costs, and in default of payment to imprisonment for a term of not more than ninety days.

7. If the Minister is satisfied that the holder of any licence issued pursuant to this Act or pursuant to the Licensing of Trades and Businesses Act, being chapter 67 of the Statutes of Alberta, 1936, has on more than one occasion contravened any of  
20 the provisions of this Act, or of the Department of Trade and Industry Act, or of The Minimum Wage Act, 1925, or of The Male Minimum Wage Act, or of The Industrial Standards Act, or of The Tradesmen's Qualification Act, or of The Hours of Work Act, or of the provisions of any code, or of any order or of any regulations made pursuant to any of the said Acts, the Minister may in his discretion suspend or cancel for such period as he may decide proper any licence issued pursuant to this Act and may refuse to issue any licence under this Act to any person whose licence has been so cancelled.

8. In any case in which it appears to the Minister that it is questionable whether it is in the public interest that any application for the issuance or renewal  
30 of any licence in respect of any business in any locality should be granted, the Minister may,—

- (a) if he is satisfied that it is in the public interest so to do, refuse such application; or
- (b) refer any such application to any Board constituted pursuant to any Act of the Province for investigation, and upon any such reference being made to any such Board that Board shall proceed to investigate and report to

the Minister upon the application; and upon the receipt of any such report the Minister may, if he is satisfied by the report or otherwise that it is in the public interest so to do, either grant or refuse to grant the application.

9. No licence shall be issued by any city, town, village, or municipality for the carrying on of any business which has been designated as a business to which this Act applies, unless the applicant is the holder of a subsisting licence issued pursuant to this Act in respect of that business.

10. *The Licensing of Trades and Businesses Act*, being chapter 67 of the Statutes of Alberta, 1936, is hereby repealed; provided always that all orders, regulations and rules heretofore made under that Act shall continue good and valid until they are annulled or others are made in their stead in pursuance of this Act.

11. This Act shall come into force on the day upon which it is assented to.

	<b>No. 32.</b>	<i>In the Supreme Court of Canada.</i>
	<b>Factum of The Attorney General of Alberta (Bank Taxation).</b> <i>(Separate document)</i>	No. 32.
	<hr/>	
	<b>No. 33.</b>	No. 33.
	<b>Factum of The Attorney General of Alberta (Credit Regulation).</b> <i>(Separate document)</i>	
	<hr/>	
	<b>No. 34.</b>	No. 34.
	<b>Factum of The Attorney General of Alberta (Press Bill).</b> <i>(Separate document)</i>	
	<hr/>	
10	<b>No. 35.</b>	No. 35.
	<b>Factum of The Attorney General of Canada.</b> <i>(Separate document)</i>	
	<hr/>	
	<b>No. 36.</b>	No. 36.
	<b>Factum of The Canadian Press and Canadian Newspapers Association.</b> <i>(Separate document)</i>	
	<hr/>	
	<b>No. 37.</b>	No. 37.
	<b>Factum of The Alberta Press.</b> <i>(Separate document)</i>	
	<hr/>	
	<b>No. 38.</b>	No. 38.
20	<b>Factum of The Chartered Banks of Canada.</b> <i>(Separate document)</i>	
	<hr/>	
	<b>No. 39.</b>	No. 39.
	<b>Factum of The Attorney General of British Columbia.</b> <i>(Separate document)</i>	
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*In the  
Supreme  
Court of  
Canada.*

**No. 40.**

**Formal Judgment.**

No. 40.  
Formal  
Judgment,  
4th March,  
1938.

IN THE SUPREME COURT OF CANADA  
Friday, the 4th day of March, A.D. 1938.

PRESENT :

The Right Honourable the CHIEF JUSTICE OF CANADA  
The Honourable Mr. Justice L. A. CANNON  
The Honourable Mr. Justice O. S. CROCKET  
The Honourable Mr. Justice H. H. DAVIS  
The Honourable Mr. Justice P. KERWIN  
The Honourable Mr. Justice A. B. HUDSON

10

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 20 Governor General's pleasure.

WHEREAS by Order in Council of His Majesty's Privy Council for Canada, bearing date the second day of November, in the year of our Lord, one thousand nine hundred and thirty-seven (P.C. 2749), the important questions of law hereinafter set out were referred to the Supreme Court of Canada, for hearing and consideration, pursuant to section 55 of the Supreme Court Act, Revised Statutes of Canada, 1927, chapter 35 :—

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 ?

AND WHEREAS the said questions came before this Court for hearing and consideration on the eleventh, twelfth, thirteenth, fourteenth and seventeenth days of January, in the year of our Lord, one thousand nine hundred and thirty-eight, in the presence of Mr. A. Geoffrion, K.C., Mr. J. Boyd McBride, K.C., and Mr. C. P. Plaxton K.C., of counsel for the Attorney General of Canada; Mr. O. M. Biggar, K.C., Mr. W. S. Gray, K.C., and Mr. J. J. Frawley, K.C., of counsel for the Attorney General for the Province of Alberta; Mr. W. N. Tilley, K.C., Mr. R. C. McMichael, K.C., Mr. W. R. Chipman, K.C., and Mr. A. W. Rogers, K.C. of counsel  
 10 for Chartered Banks; Mr. W. N. Tilley, K.C., and Mr. H. P. Duchemin, K.C., of counsel for the Canadian Press; Hon. J. L. Ralston, K.C., Mr. S. W. Field, K.C., and Mr. R. de W. Mackay, K.C., of counsel for Alberta Newspapers; and Mr. H. A. MacLean, of counsel for the Attorney General of the Province of British Columbia; and after due notice to the Attorneys General of the several Provinces of Canada;

WHEREUPON and upon hearing what was alleged by counsel aforesaid, this Court was pleased to direct that the said Reference should stand over for consideration, and the same having come on this day for determination; the Court hereby certifies to His Excellency the Governor General in Council,  
 20 for his information, pursuant to subsection 2 of section 55 of the Supreme Court Act, that the unanimous opinion of the Court upon each of the three questions is as follows :—

1. As to Bill No. 1, entitled “ An Act Respecting the Taxation of Banks,”—the question referred is answered in the negative;
2. As to Bill No. 8, entitled “ An Act to Amend and Consolidate the Credit of Alberta Regulation Act,”—the question referred is answered in the negative;
3. As to Bill No. 9, entitled “ An Act to Ensure the Publication of Accurate News and Information,”—the question referred is  
 30 answered in the negative;

and that the reasons for such answers are to be found in the Judgments written and certified by the individual members of the Court, copies of which are hereunto annexed.

J. F. SMELLIE,  
 Registrar.

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*In the  
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**No. 41.**

**Reasons for Judgment.**

No. 41.  
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(A) Duff C.J.  
(concurring  
in by  
Davis J.)

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 ” ;

10

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

BEFORE : The CHIEF JUSTICE and CANNON, CROCKET, DAVIS,  
KERWIN and HUDSON JJ.

The judgment of the Chief Justice and Mr. Justice Davis was delivered by

(A) The CHIEF JUSTICE.—The three Bills referred to us are part of a general scheme of legislation and in order to ascertain the object and effect of them it is proper to look at the history of the legislation passed in furtherance of the general design.

20

It is no part of our duty (it is, perhaps, needless to say) to consider the wisdom of these measures. We have only to ascertain whether or not they come within the ambit of the authority entrusted by the constitutional statutes (the British North America Act and the Alberta Act) to the Legislature of Alberta and our responsibility is rigorously confined to the determination of that issue. As judges, we do not and cannot intimate any opinion upon the merits of the legislative proposals embodied in them, as to their practicability or in any other respect.

It will be necessary, first of all, to examine with some care the central measure, which is the Alberta Social Credit Act, and to arrive at a proper conception of its character from the constitutional point of view.

30

Various declarations throughout the enacting provisions of this statute, as well as in the preamble, leave no room for doubt as to its objects. We cite verbatim some of these declarations because we think it is important to have before us the language selected by the Legislature itself to describe the purpose of the legislation and the general nature and functions of the machinery which is to be put into operation.

To appreciate the significance of these declarations, however, it is necessary to advert to the constitution and nature of the three bodies set up by the statute for the administration of the Act as well as to the statutory definition of “ Alberta Credit.”

40

There is, first, a Board which is designated simply as "The Board"; the first members of which are named by the statute, their successors being appointed by the Legislature. Then there is the Provincial Credit Commission which is to be appointed by the Board; and here it is convenient to mention the duties of the Commission in determining the value of "Alberta Credit." "Alberta Credit" is defined by section 2 (a) as,

the unused capacity of the industries and people of the Province of Alberta to produce wanted goods and services.

By section 5 (1) there is to be an account in the Treasury of the Province known as the Provincial Credit Account. The Commission is to determine, in the manner prescribed by the Act, the value for each year of the

unused capacity of the industries and people of the Province of Alberta to produce wanted goods and services;

in other words, the value in money (section 2 (k)) of "Alberta Credit." This amount is to be credited to the Provincial Credit Account and "at the end of each year the amount" in this account "which shall not have been drawn upon in that year shall be written off." The decisions of the Board and of the Commission in the determination of the annual money value of this "unused capacity" are to be final and are to govern the Provincial Treasurer in the establishment and maintenance of the "Provincial Credit Account." It is this "Alberta Credit" annually determined and credited to the Provincial Credit Account which constitutes, according to the plan of the statute, a fund of credit that is to be employed and put into circulation through the machinery set up by the Act in order to facilitate the exchange of goods and services and generally to effectuate the purposes of the Act.

Then, there is the Alberta Credit House which is a department of the provincial administration, constituted by the Commission and a body corporate; and which is to maintain branches throughout the province.

A reference is also necessary to Treasury Credit Certificates. These are issued by the Provincial Treasurer against the Provincial Credit Account from time to time through the Credit House system.

Among the declarations expounding the purpose of the statute we refer to these:—

By the preamble it is affirmed:

the people of Alberta, rich in natural wealth and resources both actual and potential, are yet heavily in debt and have been unable to acquire and maintain a standard of living such as is considered by them to be both desirable and possible; and

. . . the existing means or system of distribution and exchange of wealth is considered to be inadequate, unjust and not suited to the welfare, prosperity and happiness of the people of Alberta.

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Section 7 provides :

It is the intent and purpose of this Act to provide for the issue of Treasury Credit Certificates to such extent as may be requisite 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 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.

Section 31 declares :

The Commission shall so function and administer this Act for 10 the purpose and to the intent that the Treasury Credit Certificate Account in all Branches shall be maintained in balance at all times. It is the intent of this Act to control the volume of the means of payment for goods and services in harmony with the ability of the whole Province to produce and consume them on a rising standard of living, so that excess expansion of credit and a consequent undue advance in the price level shall not occur, and that the present system of issuing credit through private initiative for profit, resulting in recurrent deflations and inflations shall cease.

With this section, section 33 should be read. It is in the following words : 20

In order to establish a system of circulating credit which shall at all times conform to the capacity of the industries and people of Alberta for the production of wanted goods and services ; it is hereby declared to be the policy of the Legislative Assembly of Alberta to prevent the undue expansion of credit as well as to eliminate the contraction of credit in time of slackening trade. It is the true meaning and intent of this Act, whenever deemed necessary by the Commission, that the controls over supply of credit through open market operations and the discount rate shall be employed as heretofore to maintain a balanced credit structure. 30

To these should be added the following statements in the Social Credit Measures Act (1936) which has been repealed :

. . . the existence of indigence and unemployment throughout a large portion of the population demonstrates the fact that the present monetary system is obsolete and a hindrance to the efficient production and distribution of goods ; and

. . . the electors of the Province are favourable to the adoption in the Province of a measure based on what are generally known as Social Credit principles, their general objects being to bring about the equation of consumption to production, and to afford to each 40 person a fair share in the cultural heritage of the people in the Province ;

and this statement from the Credit House Act (1936) also repealed :

2 (a) " Alberta Credit " means the credit provided by the Credit House for facilitating the exchange of goods and services within the Province.

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Section 36 (b) should also be noticed :

36. In addition to the specific powers conferred by this Act, the Commission shall be empowered,—

10 (b) to examine into, consider, investigate and formulate proposals having for their object the increase of the purchasing power of the consumer by means of social dividends, compensating discounts or by any other means and the payment to the producer of any commodity of a just price and the allowance to any dealer in a commodity of a fair commission on turnover, and for such purposes to ascertain all necessary facts relating thereto, and to report to the Board as to the feasibility of applying any such proposal or any modification thereof having regard to the economic circumstances of the Province and of the various businesses, industries, trades and vocations of the people of the Province.

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20 By section 42, the substance of which is given below, the Lieutenant-Governor in Council has full power to give effect to any report of the Commission in so far as its recommendations are not contrary to the policy of the statute, even to the extent of altering and supplementing the provisions of the statute itself.

30 These declarations enable us to affirm with certainty (1) that the evil as the Legislature conceives it with which the statute is intended to grapple is the inability of the people of Alberta to attain to a proper standard of living by reason of the inadequate supply or the unfair distribution of purchasing power; and (2) that, broadly speaking, the enactments in the statute are designed, to employ the phraseology of the authors of the  
40 legislation, to equate purchasing power or effective demand with productive capacity; and, moreover, it is easily susceptible of demonstration by reference to the provisions of this statute in detail and to those of the cognate legislation that these measures proceed upon this fundamental postulate, viz., that the economic ills which they aim at curing arise primarily from financial causes and, particularly, from the circumstance that bank credit, which constitutes in the main, in point of volume, the circulating medium of payment and exchange in this country, is issued through private initiative for private profit. And, speaking in general terms, the statute sets up the machinery of a financial system which is to  
be administered by statutory authority and the predominant function of which is to provide a form of credit designated as " Alberta Credit " which is to be made accessible to consumers and others through the channels created by the Act, and which is to circulate as a medium of exchange and payment.

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Alberta credit (the nature of which is described as explained above) is distributed by the Provincial Treasurer by means of Treasury Credit Certificates? and it is his duty to issue through the Credit House system Treasury Credit Certificates in such amounts and at such times as may be required for the purposes of the statute. In particular, it is his duty to issue such certificates to the branches or other agencies for the purpose of providing the credits established pursuant to the requirements of section 13 for, that is to say,

- (a) a discount on prices to consumers at retail;
- (b) government services;
- (c) interest free loans;
- (d) debt payments;
- (e) export subsidies;
- (f) provincial consumers' dividends;
- (g) such other purposes as the Lieutenant-Governor in Council at the request of the Board may by order so declare.

10

As to the purposes mentioned in section 13 (g), it should be noticed that, by section 36 (a), in addition to the other powers conferred by the Act, the Commission is empowered to transfer Treasury Credit Certificates in any manner consistent with the purpose of this Act.

20

The Commission is, moreover, specifically authorized by section 5 (3) to advance Alberta credit to persons engaged in

agriculture or manufacturing or industry . . . and . . . to defray the costs of the building of a home or for establishing or maintaining any business, vocation, calling or for public service.

It is also authorized to negotiate any transfer of Alberta credit with any person, firm or corporate body "entitled to Alberta credit."

Then the Lieutenant-Governor in Council is authorized (section 10),

on the advice of the Board . . . (to) declare that all claims against the Province for the payment of any money out of any appropriation of public money made by the Legislative Assembly . . . shall be satisfied by the transfer to such person of an amount of Alberta Credit

30

equivalent to the amount of such claim, with a proviso that, in the case of contractual obligations, all parties must agree.

Municipal corporations (by s. 12) are authorized to accept transfers of Alberta credit in satisfaction of any claim and to transfer such Alberta credit to persons who are willing to accept the same in satisfaction or partial satisfaction of their claims for the carrying out of any public work.

Two principal methods are provided for securing access to Alberta Credit by the population generally as individuals. One of the means adopted for this purpose is designated the "Consumers' Dividend,"—a monthly grant of Alberta credit to everybody falling within the designation of "persons entitled to Alberta credit," which includes virtually everybody who is twenty-one years of age, a British subject, resident and domiciled

40

in Alberta, the amount of which is determined by the Commission. The payment of these dividends is provided by Treasury Certificates issued 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.

The second method is by use of the retail discount rate, which constitutes, perhaps, the cardinal feature of the statutory plan. This is a rebate by which purchasers of goods and services are subsidized through a reduction of price compensated by a corresponding credit to the retailer. It is applicable to sales of goods and services to ultimate consumers by persons qualified to "dispense" the discount. In order to qualify for this purpose, a retailer must enter into an agreement with the Commission, one term of which, if the Commission so requires, is that he will deal only with wholesalers and primary producers who have entered into agreements with the Commission pursuant to the provisions of the statute. The discount rate is fixed by the Commission and is determined by the ratio of the money value of the "unused productive capacity" of Alberta to the value of the total capacity.

For augmenting purchasing power, the principal agency appears to be this retail discount rate. A subsidy in this form, by way of reduction of price, it is, perhaps, assumed, will not be attended with the same risk of consequential inflation as a direct subsidy to consumers; especially as the rate, being fixed by reference to the ratio between the value of unused capacity for production and the value of total capacity may be supposed to diminish with augmentation of production. A condition of the operation of this device is, of course, the provision of some means for compensating the seller for the reduction in price and, since the province of Alberta has no legislative control over the creation of currency or legal tender or bank credits, compensation in any of these forms would ordinarily be supplied by means of taxation, or in other words, ultimately from the pockets of people living in Alberta or owning property there. Such difficulties the statutory plan proposes to avoid by the establishment of Alberta credit as a fund of credit for employment, as we have seen, as a means of exchange and payment.

The statute recognizes that extra-provincial debts will in most cases have to be paid in currency and declares that they shall be so paid when desired by the "other party"; and certain enactments of the statute appear to be intended to make provision for this. It is recognized, in other words, that it would not be practicable for Alberta to establish a system under which legal tender is wholly dispensed with.

As regards intra-provincial transactions, authority is given to everybody to receive Alberta credit in payment of goods and services, but here again the Legislature has obviously recognized its lack of authority to make such acceptance compulsory by direct legislative enactment. Nevertheless, it is clear from the declarations above quoted, as well as from the statute as a whole that the substitution generally in internal commerce of Alberta credit for bank credit and legal tender as the circulating medium is of the very essence of the plan.

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The object being to provide increased purchasing power, it is, as explained, of the essence of the scheme that this shall be brought about not by subsidizing consumers directly, but, mainly by a rebate in prices through the application of the retail discount rate. As that necessarily involves the provision of some means for compensating the seller, and since the compensation provided is compensation out of Alberta credit, it is clear enough that this device could only be made practicable in connection with transactions where the price is paid in Alberta credit, and the discount rate will itself, of course, be paid in the same way.

The practicability of the scheme, the feasibility of it as a means of accomplishing the declared purpose of the legislation, postulates, therefore, a willingness on the part of sellers of goods and services, in Alberta transactions, to accept Alberta credit in payment; in other words, acceptance generally in Alberta of Alberta credit as the circulating medium. 10

The Credit House is, as already observed, the agent of the Provincial Treasurer through which Alberta credit circulates. The Credit House is to accept deposits of currency and securities, to transfer credit, to receive deposits of credit vouchers and of transfers of Alberta credit. It can convert currency and negotiable instruments on demand into Alberta credit. It is to issue credit vouchers in payment of the consumers' dividend. 20  
It is probably intended to issue discount vouchers. Alberta credit on deposit with a branch may be drawn against by a customer by means of any instrument in the form prescribed by the Commission. The forms of credit vouchers and discount vouchers and of transfers are to be settled by regulation by the Commission.

It is expressly provided that a transfer of credit becomes effective on delivery; that is to say, on presentment to a branch of the Credit House, In other words, it is equivalent to an order which is to be honoured on demand. Bankers' credit may be described as the "right to draw cheques on a bank"; and the practical exercise of this right involves either the transfer of credit to another on the books of the same bank, or on the books of another bank, or payment to the payee in legal tender at his discretion. 30  
A customer of the Credit House has no right to require payment of legal tender at his discretion, unless his deposit is a currency deposit, and cannot transfer such a right to another, but, save in that respect, he is, and must necessarily be, if the system is really to be operative, in relation to his account in the Credit House, in the same position as the customer of a bank.

The question arises: Is legislation of this type competent to a province as within the ambit of Property and Civil Rights within the Province (no. 13) or Matters merely local or private within the Province (no. 16); or does the subject matter of it fall within the categories of matters set apart by section 91 under the enumerated heads of that section to be exclusively regulated and controlled by the central legislative authority acting in behalf of the people of Canada as a whole? 40

The question thus stated puts a dilemma which is not strictly complete because, of course, a subject matter of legislation, though not within any

of the enumerated heads of section 91, may still be outside the ambit of section 92.

The whole of the two sections must be considered; and, of course, in light of the judicial interpretation of them. The second of the enumerated categories of section 91 is defined by the words "The Regulation of Trade and Commerce." The same section comprises a number of other categories of subjects which in great part, at least, would, if full scope were given to the words "Regulation of Trade and Commerce" in their ordinary sense, fall under head no. 2. Among them are Currency and Coinage (no. 14);  
 10 Incorporation of Banks, Banking and the Issue of Paper Money (no. 15) and Legal Tender (no. 20).

In respect of "any matter coming within any" of these "classes of subjects" the authority of the Parliament of Canada is "exclusive"; and "legislation falling strictly within any of the classes" so enumerated "is not within the legislative competence of the provincial legislatures under section 92" (*The Fisheries case*, 1898 A.C. at p. 715).

Indeed, by the explicit words of the concluding paragraph of section 91, "any matter coming within any of" these "classes of subjects shall not be deemed to come within the class of matters of a local and private  
 20 nature" assigned exclusively to the provinces. It is settled by the decision of the Privy Council in *A.G. for Ontario v. A.G. for Canada* (1896 A.C. 348, at p. 359) (as interpreted in the *Great West Saddlery Co. v. The King*, 1921 2 A.C. at p. 99) that if a given subject matter falls within any class of subjects enumerated in section 91, "it cannot be treated as covered by any of those within section 92."

The general character of the classes of subjects enumerated in section 91, especially of those mentioned above (Trade and Commerce, Currency and Coinage, Banks and Banking, Legal Tender), is important. A comparison of the nature of these subjects with the subjects included in section  
 30 92 seems to suggest that credit (including credit in this novel form) as a medium for effecting the exchange of goods and services, and the machinery for issuing and circulating it, are among the matters assigned to the Dominion under section 91 and not among those intended to be assigned to the provinces under any of the categories of section 92.

The categories (of s. 91) mentioned having been committed for legislative action to Parliament, which represents the people of Canada as a whole, we find it difficult to suppose that it could have been intended, under the general headings Property and Civil Rights, Matters merely local or private, that a single province might direct its powers of legislation under section 92  
 40 to the introduction, maintenance and regulation of this novel apparatus for all commercial, industrial and trading operations.

For our present purpose, we are, once again, not in the least concerned with any question of the practicability of the scheme; which will necessarily depend, as we have seen, upon the general acceptance, by the people of Alberta, of Alberta credit as a medium of payment in intra-provincial transactions. In order to test the validity of the legislation we must, we think, envisage the plan in practice as the statute contemplates it.

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Our conclusion is that it is not within the power of the Province to establish statutory machinery with the functions for which this machinery is designed and to regulate the operation of it. Weighty reasons could be urged for the conclusion that, as subject matter of legislation, in part at least, it comes within the field designated by "Currency" (no. 14 of section 91). We think the machinery in its essential components and features comes under head no. 15, Banks and Banking; and if the legislation is not strictly within the ambit of no. 14 or no. 15, or partly in one and partly in the other, then we are satisfied that its subject matter is embraced within category no. 2, Trade and Commerce, and that it does not come within section 92. 10

First, as to banking. A banker has been defined as "a dealer in credit." True, in ordinary speech, bank credit implies a credit which is convertible into money. But money as commonly understood is not necessarily legal tender. Any medium which by practice fulfils the function of money and which everybody will accept in payment of a debt is money in the ordinary sense of the words even although it may not be legal tender; and this statute envisages a form of credit which will ultimately, in Alberta, acquire such a degree of confidence as to be generally acceptable, in the sense that bank credit is now acceptable; and will serve as a substitute therefor. 20

Sections 31 and 33, which have been quoted above, are most important in this connection.

Furthermore, sections 32, 34 and 35 (1) all contemplate the maintenance and control of credit by operations which would appear to be substantially banking operations.

It will be observed that full powers are vested in the Commission to give effect to the general provisions of the Act by regulation; and that, moreover, the Board is invested with authority to assist any proposal calculated to "equate" consumption with production; and, furthermore, that the Lieutenant-Governor in Council, by section 42, is authorized, for the purpose of giving effect to the intent and purpose of the statute, upon the request of the Board, to alter or supplement the provisions of the Act for the purpose of providing for matters arising out of the operation of the Act for which no provision is made, provided that such change is not contrary to the policy of the Act. The "policy" of the Act, "the intent and purpose" of the Act, are sufficiently stated in the declarations quoted above. 30

Since the operation of the scheme will necessarily depend upon the general employment of Alberta credit as a means of exchange and payment, we think the argument advanced in Mr. Geoffrion's factum is a sound one, that, as regards the forms of credit vouchers and discount vouchers and transfers, and the administration of the Credit House and the transaction of business as between the Credit House and its customers, provision will presumably be made in exercise of these powers for facilitating in as high degree as possible the use of Alberta credit for all the purposes of trade and commerce within Alberta; and that the forms of dealing in credit, which 40

by long experience have commended themselves to the banking, financial and commercial community as the most convenient, will be followed as far as practicable. It is fair to infer, we think, that this is what the statute contemplates.

In substance, we repeat, this system of administration, management and circulation of credit (if, and in so far as it does not fall under the denomination "Currency") constitutes in our view a system of "banking" within the intendment of section 91; and the statute in our opinion is concerned with "banking" in that sense.

10 There is, if the subject matter of the statute is not strictly "currency" or "banking," or both, an alternative view of the character of it. Employing the words in their ordinary sense and detached from their context in the British North America Act, nobody would hesitate to say that the Alberta Social Credit Act is concerned with "trade and commerce." It provides the machinery for a novel system of credit and contemplates the separation of intra-provincial industry, commerce and trade from the existing system of finance (in which bank credit and legal tender constitute the media of payment); and the conduct of industrial, commercial and trading activities by the instrumentality of this new system of credit  
 20 through this statutory machinery; and this would appear to involve profound and far-reaching changes in the operations of commerce and trade. In this connection the comprehensive terms of section 36 (b) should be recalled. Any proposal reported to the Board by the Commission pursuant to that section can, under the powers of section 42, be given the force of statute by the Lieutenant-Governor in Council, even though that should involve an amendment of the Act. These two sections afford striking evidence of the penetrating and far-reaching character of the activities of the Board and the Commission in relation to commerce, industry and trade which the authors of the legislation had in view.

30 Such legislation, if not legislation in respect of banking or currency, would appear to be concerned with the regulation of trade and commerce, rather than with property and civil rights or matters merely local or private in the Province.

This brings us to the question: Is such a classification forbidden by the context, or by any restriction imposed in consequence of considerations derived from the enactments and the declarations of the B. N. A. Act, as a whole?

In deciding this question, we must, of course, consult the pronouncements of the Courts. It has been settled in a series of decisions that the  
 40 literal meaning of the words "Regulation of Trade and Commerce" must be restricted

in order to afford scope for powers which have been given exclusively to the provincial legislatures (*Bank of Toronto v. Lambe*, 12 A.C. at p. 387).

It will not be necessary to review these decisions at length. The concrete questions there brought into controversy can be briefly stated. They

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concerned the authority of the Dominion under section 91 (2) to legislate in relation to local railways and undertakings, which are specifically dealt with in section 91 (29) and section 92 (10) (*Montreal Street Railway* case, 1912 A.C. 333); in relation to the regulation of a particular business (*Insurance Reference*, 1916 1 A.C. 588); in relation to a commission appointed by the Government of Canada and empowered to make orders directed to particular traders in a given town controlling them in respect of the prices of commodities offered by them for sale in such town (*In re Board of Commerce Act*, 1922 1 A.C. 191); in relation to the public investigation of disputes between individual employers and their workmen and the prohibition of strikes and lockouts pending such investigation (*Toronto Electric Commissioners v. Snider*, 1925 A.C. 396). 10

These comprise the principal relevant decisions prior to the judgment of the Privy Council in 1937 in *re Natural Products Marketing Act* to which we are about to refer; and if attention be directed to the thing which was the actual subject of decision, rather than to what was said, it will be found that they are completely and accurately summed up in the observation of Lord Atkin in *A.G. for B.C. v. A.G. for Canada* (1937 A.C. 377, at p. 387) in these words:

the regulation of trade and commerce does not permit the regulation of individual forms of trade or commerce confined to the Province. 20

In our opinion, there is no kind of analogy between the legislation under review in any of these cases and the Social Credit Act. Neither the object of that Act, as stated in the explicit declarations quoted, nor the effect of it, if it be operative, is the regulation of any particular form of business, unless it is legislation on the subject of banking. Nor does the statute attempt the regulation of particular trades or of forms of trade or commerce through a general authority committed to a single regulating body, as in the *Board of Commerce* case and in the *Reference re the Natural Products Marketing Act*. Nor is it a statute, such as the *Sales of Goods Act*, declaring the legal rights of parties in relation to trading or commercial transactions. It attempts, as we have said, to effect a radical reorganization of the whole system of trade and commerce within the Province by the substitution of a novel system of credit for the present financial system under which the operations of trade, industry and commerce are now conducted. 30

Can it be said that this view ascribes to the Regulation of Trade and Commerce a meaning and effect which unduly restricts the ambit of the powers given under section 92—which fails, in the words quoted above from the judgment in *Bank of Toronto v. Lambe*, to 40

afford scope for powers which are given exclusively to the provincial legislatures?

The conclusion, we have already indicated, that the subject matter of this legislation would appear more naturally to fall within category no. 2 of section 91 than within section 92 under either Property and Civil Rights

or Matters merely local and private, is fortified by reference to the general nature of other classes of subjects assigned to the Dominion. Assuming that the subject matter does not fall within the more specific categories mentioned (Banking and Currency), it is closely allied to such matters. We can see, we repeat, no reason for ascribing it to nos. 13 and 16 of section 92. Where you have in the enumerated subdivisions of section 91 language which is apt for the designation of a particular matter, then you are not entitled to exclude that matter from the category so defined in the absence of some very cogent reason. The reason indicated above (the risk of unduly restricting the scope of powers intended to be vested in the provinces) which led to the exclusion from this category of the regulation of individual forms of trade and commerce, and of contracts in particular trades, and the regulation of the relations of masters and servants, have no application here; because an inspection of the structure and language of sections 91 and 92, and a comparison of the subjects of the two sections, reveals no justification for the assumption that the subject matter of this legislation belongs to any type of matters which it could have been intended to commit to the legislative jurisdiction of a single province.

We have discussed the principal decisions upon the scope of head no. 2 of section 91. It remains to consider some observations contained in the judgments in three of those cases,—the *Montreal Street Railway* case, the *Board of Commerce* case and *Toronto Electric Commissioners v. Snider*. In the judgments in the two last-mentioned cases a view was expressed which had been adumbrated in the first of them and which can be given in a sentence from the judgment in *Toronto Electric Commissioners v. Snider* (1925, A.C. at p. 410). It is to this effect :

It is in their Lordships' opinion now clear that excepting so far as the power can be invoked in aid of capacity conferred independently under other words in s. 91, the power to regulate trade and commerce cannot be relied on as enabling the Dominion Parliament to regulate civil rights in the Provinces.

It is difficult, no doubt, to reconcile this view with the concluding paragraph of section 91 already discussed; nevertheless, in a judgment delivered in *Re the Natural Products Marketing Act* (1936, S.C.R. 398) we unanimously expressed the opinion, and our judgment proceeded in part, at least, upon the hypothesis, that we were bound by this pronouncement in the judgment in *Snider's* case and by similar pronouncements in the *Board of Commerce* case, as expressing the *ratio decidendi* of those decisions. It is clear now, however, from the reasons for judgment in *A.G. for Ontario v. Canada* (1937, A.C. at pp. 417, 418) that the Regulation of Trade and Commerce must be treated as having full independent status as one of the enumerated heads of section 91. The judgment states, referring to the former Trade Mark Act of 1927, that it gave

to the proprietor of a registered trade mark the exclusive right to use the trade mark to designate articles manufactured or sold by him. It creates, therefore, a form of property in each Province

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and the rights that flow therefrom. . . . If challenged one obvious source of authority would appear to be the class of subjects enumerated in s. 91 (2), the Regulation of Trade and Commerce, referred to by the Chief Justice. There could hardly be a more appropriate form of the exercise of this power than the creation and regulation of a uniform law of trade marks.

This judgment recognizes the necessity of keeping the actual language of sections 91 and 92 constantly in view in applying the enactments of those sections. Paraphrases of the words of head no. 2 of section 91 have been found useful in particular cases for assigning to that head a function 10 in the scheme of these sections which would not result in defeating one main purpose of the B.N.A. Act by substantially impairing the autonomy of the provinces in respect of matters of purely provincial concern. But such paraphrases were not framed in light of the possibility of such legislation as that now before us. Such legislation was not in the minds of the great judges who adopted them. And since in none of the cases was it strictly necessary to draw an abstract line fixing the limits of the category in question, these formulae ought not to be treated as substitutes for the words of section 91, when, as now, a totally new type of legislation has to be considered; in relation to which it would be extravagant to suggest that 20 any question of impairment of such autonomy arises.

It remains to add that the circumstance that the statute operates only within the boundaries of the Province is, in the view expressed above, immaterial.

This Act, in common with the Credit of Alberta Regulation Act, contains a section which it will be convenient to discuss here. It is section 50 and is in these words :

No provision 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 Legislative Assembly. 30

Speaking of similar provisions in *Rex v. Nat Bell Liquors, Ltd.* (1922, 2 A.C. 128, at p. 136) Lord Sumner said :

In their Lordships' opinion the real question is whether the Legislature has actually interfered with interprovincial 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 40 in an enactment crucial.

Since, in our opinion, the substantive enactments of the statute are *ultra vires* and the statute as a whole is void as constituting an attempt to set up and provide for the regulation of the machinery for a system of

credit in the sense explained, s. 50 would appear, in the view expressed by the Judicial Committee, to be of no significance, as having nothing to operate upon.

Section 50 is of an entirely different character from that in question in *A.G. for Manitoba v. Manitoba Licenseholders Ass'n* (1902 A.C. 73).

\* \* \*

We come now to the bills submitted. The first to be considered is Bill No. 8, "The Credit of Alberta Regulation Act, 1937."

In view of what has already been said, this statute is *ultra vires* on a narrow ground. It is a licensing statute, not in the sense that it imposes taxation by way of licence, but in the sense that the licensing authority is used for the purpose of regulating the institutions to which the statute relates; that is the pith of it, and the licensing authorities are the Provincial Credit Commission and the Social Credit Board, the commission and the board constituted under the Alberta Social Credit Act; and the narrow point is this: In the view already expressed, the Alberta Social Credit Act is *ultra vires*. The machinery it professes to constitute cannot, therefore, come into operation. Consequently, the Credit Regulation Act which can only take effect through that machinery must necessarily be inoperative. Furthermore, it is quite plain, not only from the preamble of the Credit Regulation Act, but also from its enacting provisions, that it is a part of the general scheme of legislation of which the Social Credit Act is really the basis; and that statute being *ultra vires* ancillary and dependent legislation falls with it.

The broader ground upon which we think this legislation is *ultra vires* is this: First, it is legislation in relation to Banking. In the alternative, it is legislation in relation to the Regulation of Trade and Commerce within the meaning of section 91(2) of the British North America Act.

The statute contains no express definition of "credit." Nevertheless, the language itself in which the enactments of the statute are expressed appears to afford indicia from which it is not difficult to ascertain the kind of credit the statute contemplates. First, we have the declaration that a "credit institution" is a person or corporation whose business or any part of whose business is the business of dealing in credit. The credit we are concerned with, therefore, is something which is dealt with as part of a business.

Then, by clause (b), a business of this kind consists in transactions whereby such "credit is created, issued, lent . . . provided . . . by means of book-keeping entries" or "dealt in" by such means. Further, the credit is of such a character that these transactions occur in relation to it: "the payment of cheques (which have been) made, drawn or paid in by customers," the payment of other negotiable instruments which have been similarly dealt with by customers and "the making of advances and the granting of overdrafts."

We are concerned, for the present, with ascertaining the effect of clause (a) and of clause (b) minus the last member.

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Perhaps it is convenient at the outset to refer to the recital which is in these words :

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.

“ Monetization of credit ” does not seem to be a very precise expression, but it does point to the conclusion that the credit with which the statute is concerned is credit in a form in which it can be employed for the purposes of money. 10

Now, the language of clause (b), excluding, of course, the last member, is perfectly sensible as applied to bank credit. A banker is a dealer in credit. Bank credit has, in ordinary usage, the meaning which is ascribed to it in the following paragraph in the chapter on the Creation of Credit in the late Mr. Walter Leaf's volume on Banking in the Home University Library, a chapter added in the last edition by Mr. Ernest Sykes, Secretary to the Institute of Bankers :

The word credit is used in a variety of meanings between which it is not at the moment necessary to distinguish. Suffice it to say that when the creation of credit is discussed there is general agreement that by credit is meant banker's credit, that is to say, the right to draw cheques on a bank. The exercise of this right involves either the withdrawal from the bank of legal tender, in the shape of bank notes or silver and bronze coin, or the transfer of such a right to some other person in the books of the same or another bank. 20

In a well-known book, published in 1890 (Macleod, Theory of Credit, p. 368-9), it is said :

When a customer pays in money into his account in the usual way of business, he sells it to the banker. . . . 30

In exchange for the money the banker makes an entry of an equal sum in credit in favour of his customer. And it is the entry to the credit of the customer which, in the technical language of modern banking is termed a Deposit . . .

So when a banker discounts a bill for a customer he buys it exactly in the same way as he bought money from his customer. He creates a credit in his books in favour of his customer. And this credit created to purchase the bill is termed a deposit equally as the credit created to purchase the money. . . . A deposit is simply a credit in the banker's books. It is the evidence of the right of action which a customer has to demand a sum of money from the banker. As soon as the banker has created a credit, or deposit, in his books in favour of a customer he has issued to him a right of action against himself. 40

It is needless to say, perhaps, that we are not in the least concerned here with controversies about the creation of credit by bankers, touching the limits of the power of bankers in this respect, and the conditions to which the power is subject. Everybody concedes that bankers do create credit in the sense of the paragraphs just quoted. Moreover, it is not in conflict with usage to speak of such credit being "credit created, issued, lent, provided or dealt in by means of book-keeping entries."

Such language, properly understood, not incorrectly describes the practice followed in banking transactions. Speaking generally, bank credit transferable on demand and so available for commercial purposes is evidenced by book-keeping entries, and it is upon the evidence and authority of such entries that the banker and his employees daily and hourly act in the business of the bank. Such entries are for practical purposes the record as well as the evidence of the creation of bank credit and it is by means of them that such credit as a medium of payment and exchange is transferred, disbursed and dealt in.

Then, the transactions enumerated in the second member of the clause are all defined as transactions relating to "credit created, issued, lent, provided or dealt in by means of book-keeping entries" in course of the business of dealing in credit. In this country, the functions of temporary lending and the provision of transferable credits as a means of payment are performed together as a matter of course.

But it is important to emphasize that, while the payment of customers' cheques and other negotiable instruments and the making of advances and the granting of overdrafts are enumerated in the second member of the clause, they are all transactions having relation to some "credit created . . . or dealt in by means of book-keeping entries."

The essential feature of the business of dealing in credit, therefore, is, by this definition, the creation of credits and the dealing in credits by means of book-keeping entries and these related transactions. It should be noted also that, from the persons carrying on the business of dealing in credits so defined, is excepted the Bank of Canada; and clause (b), with the last member left out of consideration, has unquestionably the effect of designating transactions which are the transactions of somebody who is carrying on business in banking. We are unable to read this language as extending to transactions which are not of that character. It was suggested that the transactions of a bill broker or a person engaged in discounting bills or making advances on the credit of bills or promissory notes would fall within it, but this leaves entirely out of account the all important limitation that the business of dealing in credit, by definition, is the business of somebody who is engaged in transactions of the kind specified but with the qualification that such transactions are effectuated by means of "book-keeping entries." Such language, properly understood, finds as we have seen, a reasonable application in designating the transactions of a banker but, so far as we are aware, it has no application to the business of a bill broker or to that of a money lender who is not a banker.

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It should be observed that the statute applies only to credit institutions which are carrying on business when the Act comes into force, that is, when assented to.

We come now to the final member expressed in these words :

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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.

We repeat, clause (b) consists of a single sentence containing what professes to be a definition of "business of dealing in credit" as employed in the statute. The words just quoted are part of that definition. If effect is given to them, they completely destroy everything which precedes them in that definition. They reduce the definition to the single proposition that the "business of dealing in credit" in the Act "does not include transactions which are banking within the meaning of the word 'banking' as used in sub-head 15 of section 91 of *The British North America Act, 1867.*"

We have come to the conclusion that we have here one of those cases in which there is a repugnancy of such a character that the last words, if any effect is to be given them, really empty the clause of all meaning as a definition and the statute of its intended effect and must be disregarded. (*The Case of Alton Woods*, 1 Co. Rep. 47b; *Clelland v. Ker*, 6 Ir. Eq. 35, and *Drury* 227.)

If we should be wrong in this view of the construction of section 2 (b), in other words, if, giving full effect to the last sentence, there is still some content left in the phrase "business of dealing in credit" then the subject-matter of the statute would appear to be within the category Regulation of Trade and Commerce within the meaning of section 91 (2). We think it plain that "credit" (if not strictly confined to bank credit) here means credit which is dealt in as bank credit is dealt in, not such a credit, for example, as is created by a purchase of goods on credit in the ordinary course of business, but credit which is created, issued and so forth for the purpose of being dealt with as such.

In our opinion, legislation regulating credit from the aspect and with the purpose disclosed by the provisions of the statute as a whole, read in light of the preamble and of the cognate statutes and bills (if it is not banking legislation), is legislation respecting matters which fall strictly within Trade and Commerce and not within any of the matters contemplated as subjects of provincial legislation within the meaning of section 92.

Section 7 of the statute is, in terms, identical with section 50 of the Social Credit Act and the observations with regard to that section apply equally to section 7.

The answer, therefore, to the question concerning this Bill is that it is *ultra vires*.

\* \* \*

The next Bill to be considered is that respecting the Taxation of Banks : The question to be determined in relation to this Bill is this : Is it an enactment in exercise of the provincial power to raise a revenue for provincial

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purposes by direct taxation, or is it legislation which, in its true character, relates to Incorporation of Banks and Banking.

The judgment of the Judicial Committee in *Union Colliery Co. of B.C. Ltd. v. Bryden* (1899 A.C. 580) is sufficient authority for the proposition that the answer to this question is to be found by ascertaining the effect of the legislation in the known circumstances to which it is to be applied.

The rate of taxation is an annual rate of one-half of one per cent. on the paid-up capital and one per cent. upon the amount of the reserves as well as upon the amount of the undivided profits. It is proper, we think, to test the effect of the legislation by considering the case of a bank—the Bank of Montreal, for example—which carries on business in every province of Canada as well as in many other places in North America and elsewhere.

The population of Alberta, in round numbers, is 800,000 and that of the Dominion, in round numbers, 10,000,000. The ratio of the first figure to the second is expressed by the fraction two twenty-fifths. It is not, we think, for our present purposes an inaccurate assumption that the volume of business carried on by such a bank in Alberta would bear a ratio to the total business of the bank in Canada not materially greater than the ratio of the Alberta population to the population of the Dominion. The annual tax, therefore, in the case of such a bank of one-half of one per cent. upon the paid-up capital may be regarded as a charge upon two twenty-fifths of its total business; and, in respect of its reserves and undivided profits, one per cent, borne by the same part of its business. Indeed, it is pretty obvious that the fraction two twenty-fifths expresses a considerably higher ratio than a figure strictly in accord with the facts. This would appear to give a fair and reasonable point of view for obtaining a just idea of the practical effect of such taxation.

It is plain, of course, that if such a bank were subjected to such a levy in each of the provinces but on a scale varying with the business done in the province, or the population of the province, the total levy charged upon its business throughout the Dominion would amount to an annual impost of six and one-quarter per cent. upon its paid-up capital and twelve and one-half per cent. upon each of the other funds—the reserves and the undivided profits.

In our opinion, it requires no demonstration to show that such a rate of taxation must be prohibitive in fact and must be known to the Alberta Legislature to be prohibitive. It is our duty, as judges, to take judicial notice of facts which are known to intelligent persons generally; and any suggestion that the profits of banking as carried on in Canada could be such as to enable banks to pay taxes to the provinces of such magnitude, having regard to the other burdens, such as municipal rates, which are levied upon them in Canada, as well as the taxes paid in foreign countries, would be incontinently rejected by anybody possessing the most rudimentary acquaintance with affairs.

Now, this tax upon banks is of proportions which have no parallel in the Alberta system of taxation. In the same year there was a substantial increase in the taxes levied upon corporations generally, including banks.

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This levy now in question which was imposed later is directed exclusively against banks.

Such legislation, in effect prohibitive, although in form relating to taxation is, in truth, legislation "directed to," to quote the phrase of Lord Haldane in *Wharton's* case (1915, A.C. 343), controlling the banks in the conduct of their business, by forcing upon them a discontinuance of business, or otherwise. Such legislation, notwithstanding its form, is not within the powers of the provinces under section 92 because its subject-matter in truth is the Incorporation of Banks and Banking, one of the enumerated heads of section 91 (No. 15). The concluding paragraph of section 91 is explicit. 10

Their Lordships made reference to the circumstance that the concluding words of s. 91 of the British North America Act, "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," render it necessary to do more than ascertain whether the subject-matter in question apparently falls within any of the heads of s. 92. As is now well settled the words quoted apply, not only to the merely local or private matters in the Province referred to in head 16 of s. 92, but to the whole of the sixteen heads in that section: *A.G. for Ontario v. A.G. for Canada*; (1896) A.C.348. 20

This is the language of the Judicial Committee in *Great West Saddlery Co. v. The King* (1921, 2 A.C. 99).

The chartered banks in Alberta exercise their powers under the authority of a Dominion statute, the Bank Act. By that statute, a system of banking is set up by the Parliament of Canada and provision is made for the incorporation of individual banks which, on compliance with the statutory conditions, are entitled to carry on business subject to the provisions of the statute. This system of banking has been created by the Parliament of Canada in exercise of its plenary and exclusive authority in relation to that subject, and any legislation by a province which, to quote again the phrase of Lord Haldane, is "so directed by the provincial legislatures" as either directly or indirectly to frustrate the intention of the Bank Act by preventing banks carrying on their business or controlling them in the exercise of their powers must be invalid (*G. W. Saddlery v. The King* 1921, 2 A.C. at p. 100). 30

This view of the effect of the legislation is greatly strengthened by the obvious relation of the Bill to the scheme of legislation to which the other Bills already discussed belong. This relation between the Bill in question and the Social Credit legislation as a whole enables us in some degree to understand a measure which would otherwise be simply incomprehensible. 40

There are two other points to which we think it advisable to refer briefly. As regards the excessive magnitude of the tax, the question may be asked: Where are you to draw the line? The answer to that is, any

attempt to draw an abstract line is difficult and, in dealing with questions of the kind before us, it is inadvisable to attempt it unless it be absolutely necessary. This case presents no such necessity. It is plain on the face of the Bill that the purpose of it is not to raise a revenue for provincial purposes, and equally plain that taxation of this character throughout Canada, if operative, would completely frustrate the purposes of the Bank Act.

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The next point concerns the decision of the Judicial Committee in the *Bank of Toronto v. Lambe* (12 A.C. 575). In that case counsel on behalf of the bank strongly pressed upon their Lordships the view upon which the Supreme Court of the United States acted in a series of cases (*McCulloch v. Maryland*, 4 Wheaton 436; *Osborn v. United States Bank*, 9 Wheaton 738; *Railroad Co. v. Peniston*, 18 Wallace 5) that since, in the words of the famous dictum of Chief Justice Marshall “the power to tax involves the power to destroy,” the states must be held to be deprived of the power to tax the instrumentalities of the Federal government.

Their Lordships decline to apply this principle of interpretation to the British North America Act partly, it would appear, on the ground that the legislation of the provinces is subject to control by the Dominion through the power of disallowance. But the tax there in question had no sort of resemblance to that we are now considering and the question now before us did not there arise. Taxation of such a magnitude as to crush banks out of existence was put as a bare possibility and their Lordships declined to hold that such a possibility was sufficient for denying the provinces the power to exercise the right of taxation in a legitimate way.

In *Caron v. The King* (1924, A.C. 999 at pp. 1005–6), Lord Phillimore, speaking on behalf of the Judicial Committee, quoted with approval a passage from the judgment of Davies C.J. (then Davies J.) in *Abbott v. City of Saint John* (40 Can. S.C.R. 597 at pp. 606, 607) in these words :

The Province does not attempt to interfere directly with the exercise of the Dominion power, but merely says that, when exercised, the recipients of the salaries shall be amenable to provincial legislation in like manner as all other residents . . . . It is said the Legislature might authorize an income tax denuding a Dominion official of a tenth or even a fifth of his official income, and, in this way, paralyse the Dominion service and impair the efficiency of the service. But it must be borne in mind that the law does not provide for a special tax on Dominion officials but for a general indiscriminatory tax upon the incomes of residents and that Dominion officials could only be taxed upon their incomes in the same ratio and proportion as other residents. At any rate, if, under the guise of exercising power of taxation, confiscation of a substantial part of official and other salaries were attempted, it would be then time enough to consider the question and not to assume beforehand such a suggested misuse of the power.

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The judgment proceeds :

In *Great West Saddlery Co. v. The King* ( (1921) 2 A.C. 91) provincial legislation, which had the effect of precluding Dominion trading companies from carrying on their business in the Province unless they complied with certain special terms, was held *ultra vires*, as calculated to abrogate the capacity or derogate from the status which it was in the power of the Parliament of Canada to bestow; and a general principle was laid down that no provincial Legislature could use its special powers as an indirect means of destroying powers given by the Parliament of Canada.

By parity of reason the Parliament of Canada could not exercise its power of taxation so as to destroy the capacity of officials lawfully appointed by the Province.

10

The specific ground on which, in our opinion, this legislation is invalid is : It is not competent to the provinces of Canada, by the exercise of their powers of taxation, to force banks which are carrying on business under the authority of the Bank Act to discontinue business; and taxation by one province on a scale which, in a practical business sense, is manifestly prohibitive is not a valid exercise of provincial legislative authority under section 92. Such legislation, though in the form of a taxing statute, is “ directed to ” the frustration of the system of banking established by the Bank Act, and to the controlling of banks in the conduct of their business.

20

The answer, therefore, to the question concerning this Bill is that it is *ultra vires*.

\* \* \*

We now turn to Bill No. 9.

This Bill contains two substantive provisions. Both of them impose duties upon newspapers published in Alberta which they are required to perform on the demand of “ the Chairman,” who is, by the interpretation clause, the Chairman of “ the Board constituted by section 3 of the Alberta Social Credit Act.”

30

The Board, upon the acts of whose Chairman the operation of this statute depends, is, in point of law, a non-existent body (there is, in a word, no “ board ” in existence “ constituted by section 3 of the Alberta Social Credit Act ”) and both of the substantive sections, sections 3 and 4, are, therefore, inoperative. The same, indeed, may be said of sections 6 and 7 which are the enactments creating sanctions. It appears to us, furthermore, that this Bill is a part of the general scheme of Social Credit legislation, the basis of which is the Alberta Social Credit Act; the Bill presupposes, as a condition of its operation, that the Alberta Social Credit Act is validly enacted; and, since that Act is *ultra vires*, the ancillary and dependent legislation must fall with it.

40

This is sufficient for disposing of the question referred to us but, we think, there are some further observations upon the Bill which may properly be made.

Under the constitution established by the British North America Act, legislative power for Canada is vested in one Parliament consisting of the Sovereign, an upper house styled the Senate, and the House of Commons. Without entering in detail upon an examination of the enactments of the Act relating to the House of Commons, it can be said that these provisions manifestly contemplate a House of Commons which is to be, as the name itself implies, a representative body; constituted, that is to say, by members elected by such of the population of the united provinces as may be qualified to vote. The preamble of the statute, moreover, shows plainly enough that the constitution of the Dominion is to be similar in principle to that of the United Kingdom. The statute contemplates a parliament working under the influence of public opinion and public discussion. There can be no controversy that such institutions derive their efficacy from the free public discussion of affairs, from criticism and answer and counter-criticism, from attack upon policy and administration and defence and counter-attack; from the freest and fullest analysis and examination from every point of view of political proposals. This is signally true in respect of the discharge by Ministers of the Crown of their responsibility to Parliament, by members of Parliament of their duty to the electors, and by the electors themselves of their responsibilities in the election of their representatives.

The right of public discussion is, of course, subject to legal restrictions; those based upon considerations of decency and public order, and others conceived for the protection of various private and public interests with which, for example, the laws of defamation and sedition are concerned. In a word, freedom of discussion means, to quote the words of Lord Wright in *James v. Commonwealth* (1936 A.C. at p. 627), "freedom governed by law."

Even within its legal limits, it is liable to abuse and grave abuse, and such abuse is constantly exemplified before our eyes; but it is axiomatic that the practice of this right of free public discussion of public affairs, notwithstanding its incidental mischiefs, is the breath of life for parliamentary institutions.

We do not doubt that (in addition to the power of disallowance vested in the Governor General) the Parliament of Canada possesses authority to legislate for the protection of this right. That authority rests upon the principle that the powers requisite for the protection of the constitution itself arise by necessary implication from the British North America Act as a whole (*Fort Frances Pulp & Power Co. Ltd. v. Manitoba Free Press Co. Ltd.*, 1923 A.C. 695); and since the subject matter in relation to which the power is exercised is not exclusively a provincial matter, it is necessarily vested in Parliament.

But this by no means exhausts the matter. Any attempt to abrogate this right of public debate or to suppress the traditional forms of the exercise of the right (in public meeting and through the press) would, in our opinion, be incompetent to the legislatures of the provinces, or to the legislature of any one of the provinces, as repugnant to the provisions of

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the British North America Act, by which the Parliament of Canada is established as the legislative organ of the people of Canada under the Crown, and Dominion legislation enacted pursuant to the legislative authority given by those provisions. The subject matter of such legislation could not be described as a provincial matter purely; as in substance exclusively a matter of property and civil rights within the province, or a matter private or local within the province. It would not be, to quote the words of the judgment of the Judicial Committee in *Great West Saddlery Co. v. The King* (1921, 2 A.C. at p. 122), "legislation directed solely to the purposes specified in section 92"; and it would be invalid on the principles enunciated in that judgment and adopted in *Caron v. The King* (1924, A.C. 999, at pp. 1005 and 1006). 10

The question, discussed in argument, of the validity of the legislation before us, considered as a wholly independent enactment having no relation to the Alberta Social Credit Act, presents no little difficulty. Some degree of regulation of newspapers everybody would concede to the provinces. Indeed, there is a very wide field in which the provinces undoubtedly are invested with legislative authority over newspapers; but the limit, in our opinion, is reached when the legislation effects such a curtailment of the exercise of the right of public discussion as substantially to interfere with the working of the parliamentary institution of Canada as contemplated by the provisions of the British North America Act and the statutes of the Dominion of Canada. Such a limitation is necessary, in our opinion, "in order," to adapt the words quoted above from the judgment in *Bank of Toronto v. Lambe*, "to afford scope" for the working of such parliamentary institutions. In this region of constitutional practice, it is not permitted to a provincial legislature to do indirectly what cannot be done directly (*Great West Saddlery Co. v. The King*, 1921 2 A.C. at p. 100). 20

Section 129 of the British North America Act is in these words :

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia or New Brunswick, at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act. 40

The law by which the right of public discussion is protected existed at the time of the enactment of the British North America Act and, as far as Alberta is concerned, at the date on which the Alberta Act came into force, the 1st of September, 1905. In our opinion (on the broad principle

of the cases mentioned which has been recognized as limiting the scope of general words defining the legislative authority of the Dominion) the Legislature of Alberta has not the capacity under section 129 to alter that law by legislation obnoxious to the principle stated.

The legislation now under consideration manifestly places in the hands of the Chairman of the Social Credit Commission autocratic powers which, it may well be thought, could, if arbitrarily wielded, be employed to frustrate in Alberta these rights of the Crown and the people of Canada as a whole. We do not, however, find it necessary to express an opinion upon the concrete question whether or not this particular measure is invalid as exceeding the limits indicated above.

The answer to the question concerning this Bill is that it is *ultra vires*.

We hereby certify to His Excellency the Governor General in Council that the foregoing are our reasons for the answers to the questions referred herein for hearing and consideration.

L. P. DUFF, C.J.

H. H. DAVIS, J.

(B) CANNON J.—The first question referred to us by His Excellency the Governor General in Council is :

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 ?

This bill provides that every bank which transacts business in the province of Alberta shall annually pay to 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.

It is claimed :

1. That the tendency of the tax is that it shall be passed on and is in reality an attempt to impose a tax on the paid up capital and reserves and profits throughout Canada and abroad and, therefore, is not “ direct taxation within the province ”;

2. The proposed taxation would destroy or nullify the status and capacity of the banks which are Dominion corporations;

3. Taxation of the character in question, if within provincial competence and adopted by all provinces would strike at the very solvency of the banks and their ability to return moneys deposited with them.

The extraordinary expansion given to the recognized power of the provinces to levy direct tax for local purposes since the decision of the Privy Council in *Bank of Toronto v. Lambe*, (1887) 12 A.C. 575, notably in

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*Abbott v. City of St. John* (1908) 40 Can. S.C.R., 597; *Caron v. The King*, 1924 A.C., p. 999; *Forbes v. Attorney General of Manitoba*, 1936 S.C.R., p. 40, confirmed by the Privy Council, 1937 A.C. 860, and also in *Judges v. Attorney General of Saskatchewan*, 1936, 4 D.L.R. 134, and 1937, 2 D.L.R. 209, must be reviewed in order to decide the question.

In *Bank of Toronto v. Lambe*, the Privy Council said pp. 586-587 :

“ Then it is suggested that the legislature may lay on taxes so heavy as to crush a bank out of existence, and so to nullify the power of parliament to erect banks. But their Lordships cannot conceive that when the Imperial Parliament conferred wide powers of local self-government on great countries such as Quebec, it intended to limit them on the speculation that they would be used in an injurious manner. People who are trusted with the great power of making laws for property and civil rights may well be trusted to levy taxes. There are obvious reasons for confining their power to direct taxes and licences, because *the power of indirect taxation would be felt all over the Dominion*. But whatever power falls within the legitimate meaning of classes 2 and 9, is, in their Lordships' judgment, what the Imperial Parliament intended to give; and to place a limit on it because the power may be used unwisely, as all powers may, would be an error, and would lead to insuperable difficulties, in the construction of the Federation Act. ”

“ Their Lordships have been invited to take a very wide range on this part of the case, and to apply to the construction of the Federation Act the principles laid down for the United States by Chief Justice Marshall. Every one would gladly accept the guidance of that great judge in a parallel case. But he was dealing with the constitution of the United States. Under that constitution, as their Lordships understand, each state may make laws for itself, uncontrolled by the federal power, and subject only to the limits placed by law on the range of subjects within its jurisdiction. In such a constitution Chief Justice Marshall found one of those limits at the point at which the action of the state legislature came into conflict with the power vested in Congress. The appellant invokes that principle to support the conclusion that the Federation Act must be so construed as to allow no power to the provincial legislatures under section 92, which may by possibility, and if exercised in some extravagant way, interfere with the objects of the Dominion in exercising their powers under section 91. It is quite impossible to argue from the one case to the other. Their Lordships have to construe the express words of an Act of Parliament which makes an elaborate distribution of the whole field of legislative authority between two legislative bodies, and at the same time provides for the federated provinces a carefully balanced constitution, under which no one of the parts can pass laws for itself except under the control of the whole acting through the Governor-General. And the question they have to answer is ”

whether the one body or the other has power to make a given law. If they find that on the due construction of the Act a legislative power falls within section 92, it would be quite wrong of them to deny its existence because by some possibility it may be abused, or may limit the range which otherwise would be open to the Dominion parliament."

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In the *Forbes* case, 1936 Can. S.C.R. 40, at pp. 64 et seq., I urged that the whole question should be reconsidered and I gave some reasons why Provincial interference with the exclusive federal power of fixing the salaries  
10 of Dominion civil servants could not be upheld. I said, at page 75 :

“ Can it be denied that, under existing conditions in Canada since the war, the reduction of the salaries of Dominion employees in proportion to the needs of the provinces or municipalities, which in some cases are very great and are increasing alarmingly, would if added to the reductions imposed by the Dominion Parliament, amount to confiscation of a substantial part thereof and would as a necessary consequence seriously impair the efficiency, *morale* and economic independence of the national service? It is a patent fact to anyone conversant with Canadian conditions, and any attempt  
20 by a Province to confiscate, even in part, the stipend fixed by Parliament, whatever name may be given to the operation, under whatever disguise it may be presented, is an unauthorized assumption of a power which is essentially national in its scope and operation and is expressly denied to the Province by the last phrase of section 91. The Dominion alone can fix the salaries; and once fixed, they cannot be changed or reduced by the Province. According to elementary common sense, without the necessity of recourse to learned legal distinctions or disquisitions, a salary minus a tax of 2, 5 or 10 per cent is a reduced salary *pro tanto*. Such reduction in the case of  
30 Dominion servants can be effected by Parliament only in the exercise of its exclusive jurisdiction under head (8) of 91. Now the respondent contends that the Act contemplates and contains such an interference.”

The majority of this Court and the Judicial Committee refused to reconsider the conclusions reached about this power of taxation in the cases of *Abbott v. City of St. John* and *Caron v. The King*. I quote the following from the judgment of My Lord the present Chief Justice, 1936 S.C.R.44 :

“ In *Abbott v. City of St. John*, 1908, 40 Can. S.C.R. 597, this Court  
40 had to consider the judgment of the very able judges who decided *Leprohon v. City of Ottawa* (1878 2 Ont. L.R. 522) and it may be worth while to devote a sentence or two to Leprohon's case.

“ The trial judge was Mr. Justice Moss (his judgment is reported in 40 U.C.Q.B., at 480-484) (afterwards Chief Justice of Ontario). He proceeded upon principles which had been laid down in judgments

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of the Supreme Court of the United States, notably in the judgment of Marshall C.J. in *McCulloch v. Maryland* (1819, 4 Wheat. 316), the effect of which may be summed up in these words, quoted by Moss J. (40 U.C.Q.B. at 484) from the judgment of Nelson J. in *Buffington v. Day* (1870, 11 Wallace 113, at 123-124, reported *sub nom. The Collector v. Day*)

‘ . . . there is no express constitutional prohibition upon the States against taxing the means or instrumentalities of the General Government; but it was held, and we agree properly held, to be prohibited by necessary implication, otherwise States might impose taxation to an extent that would impair, if not wholly defeat, the operations of the Federal authorities when acting in their appropriate sphere.’ 10

“ Mr. Justice Moss himself proceeds :—

‘ In this case the Central authority, in the exercise of its appropriate functions, appointed the plaintiff to a position of emolument. In the exercise of its proper powers it assigned to him a certain emolument. This emolument the plaintiff is entitled to receive for the discharge of duties for which the Central Government is bound to provide. I do not find in the British North America Act that there is any express constitutional prohibition against the Local Legislatures taxing such a salary, but I think that upon the principles thus summarized in the case which I have just cited there is necessarily an implication that such power is not vested in the Local Legislature.’ 20

“ The learned judges in the Court of Appeal for Ontario base their conclusions upon the same grounds.

“ In *Abbott v. City of Saint John* (1908, 40 Can. S.C.R. 597), four of the five judges of this Court were clearly of the view that this reasoning was not admissible for the purpose of determining the limits of the powers vested in the provinces by the British North America Act. Davies J. said (at p. 606) :— 30

‘ Time and again the Judicial Committee have declined to give effect to this anticipatory argument or to assume to refuse to declare a power existed in the legislature of the province simply because its improvident exercise might bring it into conflict with an existing power of the Dominion.’

“ At page 618, I observed,

. . . *Leprohon v. The City of Ottawa* (2 Ont. App. R. 522) . . . was decided in 1877. Judicial opinion upon the construction of the British North America Act has swept a rather wide arc since that date; to mention a single instance only, it would not be a light task to reconcile the views upon which *Leprohon v. The City of Ottawa* proceeded with the views expressed by the Judicial Committee in 40

the later case of *The Bank of Toronto v. Lambe*. Indeed, although *Leprohon v. The City of Ottawa* has not been expressly overruled, the grounds of it have been so thoroughly undermined by subsequent decisions of the Judicial Committee, that it can,—I speak, of course, with the highest respect for the eminent judges who took part in it,—no longer afford a guide to the interpretation of the British North America Act.’

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“*Abbott v. City of Saint John* was approved in *Caron v. The King* (1924 A.C. 999) and both decisions are, of course, binding upon this Court.”

10 In the same case of *Forbes v. Attorney-General of Manitoba*, Lord MacMillan, speaking for the Privy Council (1937 A.C. 260, at p. 270), answering the argument that if the provincial authorities can tax at 2 per cent the salary which a federal employee receives from the Dominion to enable him to live in the province and discharge his duties there, they can tax his salary to such an extent as to render it impossible for him to live and perform his duties, says that a similar argument in *terrorem* was advanced and rejected in the case of *Bank of Toronto v. Lambe* and adopts Lord Hobhouse’s dictum that self-governing provinces who are entrusted with the great power of making laws for property and civil rights may well  
20 be trusted to levy taxes.

I would also refer to the case of the *Saskatchewan Judges v. Attorney-General of Saskatchewan*, 1937, 2 D.L.R. 209, where the Privy Council reaffirmed, as applying to judges’ salaries the view already expounded in *Attorney-General of Manitoba v. Forbes*, above mentioned.

*Prima facie*, in view of the above decision, it would, therefore, seem that the assets of the banks cannot be protected by the courts against the alleged destroying power of provincial taxation any more than salaries of Dominion civil servants or the emoluments of His Majesty’s judges.

Where the United States Supreme Court can exercise certain powers,  
30 the decisions above quoted seem to preclude this Court from doing the same, on account of the powers reserved to the central government under our constitution. The Privy Council has set no definite limit to the legislative competence of the provinces to levy direct taxation within the Province in order to the raising of revenue for provincial purposes. If such power is used unwisely or extravagantly, against the best interest of the whole of Canada, the power of disallowance by the Governor-General in Council, or, as in this case, that of reservation by the Lieutenant-Governor, acting, presumably, according to his instructions from the central government, are the only means or safety valves provided in our “carefully  
40 balanced constitution,” to see that “no one of the parts can pass laws for itself except under the control of the whole acting through the Governor-General.”

It must be borne in mind, however, that in the two cases last cited the Attorney-General of Canada did not appear before the Court, did not interfere in any way to show that, in the opinion of the Federal Government, the interests of the Dominion as a body politic were at stake when

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the emoluments fixed by Parliament for the Judiciary or the civil service were reduced by provincial taxation. In the present reference, the Dominion takes a very strong stand and contends that this bill, linked with the two others, constitutes essential encroachment upon the exclusive powers of Parliament of legislating in relation to “banking, incorporation of banks and paper money” and is therefore, *ultra vires*. Perhaps, under these altered circumstances, the Privy Council, if this matter is brought before Their Lordships, will reopen the question and reconsider the scope to be given to the decisions above quoted. They may even distinguish this reserved bill from the Quebec Act considered in *Bank of Toronto v. Lambe*. 10

As to the question whether the tax is taxation within the province, “any person found within the province may legally be taxed there if taxed directly,” according to *Bank of Toronto v. Lambe*, and also according to the same authority, “whether the method of assessing this tax is sound or unsound, wise or unwise, is a point on which we have no opinion, and are not called on to form one, for, if it does not carry the taxation out of the Province, it is for the legislature and not for the courts of law to judge of its expediency.”

For my part, although I always believed that the efficiency of essentially 20 federal services, like banking, cannot be impaired by provincial legislation, I, at first, felt myself bound by these concurrent and recent decisions to say that the Alberta Legislature is competent to enact a statute in the terms of this Bill. But, after perusing with great advantage the reasons of my Lord the Chief Justice, I reach the conclusion that the bill, despite its form, does not seek to raise revenue for provincial purposes but, in its true character, aims, by erecting a prohibitive barrier, to prevent the Banks from conducting their legitimate business in Alberta. Such purpose and effect must be declared *ultra vires* of the Legislature of Alberta, which cannot use its special powers as an indirect means of destroying powers 30 given by the Parliament of Canada.

The answer to the first question must be in the negative.

## II.

The second question in the order of reference is the following :

“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?”

After a full study of the matter and as I was ready to write my opinion in answer to this question, I had the advantage of reading the careful 40 analysis of the bill prepared by my brother Kerwin and his criticism of its different clauses. I find that I could add nothing useful to his reasons. I agree with him and his conclusions; and I would, therefore, answer

Question 2 in the negative. This Bill, if it became law, would constitute an invasion by the Province of Alberta of the Dominion's exclusive power of regulating banks and banking.

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### III.

The third question put to us is the following :

“ 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 ? ”

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10 The order-in-council represents that it has been and is the avowed object of the present government of the province of Alberta to inaugurate in the said province a “ new economic order ” upon the principles or plan of the theory known as the “ Social Credit ”; and that the said government has since secured the enactment of several statutes more or less related to the policy of effectuating the said object. The preamble of the bill, which I will hereafter call the “ Press bill ” recites that it is

20 “ 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.”

Section 3 provides that any proprietor, editor, publisher or manager of any newspaper published in the Province shall, when required to do so by the Chairman of the Board constituted by section 3 of the *Alberta Social Credit Act*, 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  
30 Province published by that newspaper within the next preceding twenty-one days.

And section 4 provides that the proprietor, etc., of any newspaper upon being required by the Chairman in writing shall within twenty-four hours after the delivery of the requirement

40 “ 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 requirement and the names, addresses and occupations of all persons by whom such information was furnished to the newspaper and the name and address of the writer of any editorial, article or news item contained in any such issue of the newspaper.”

Section 5 denies any action for libel on account of the publication of any statement pursuant to the Act.



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Section 6 enacts that in the event of a proprietor, etc., of any newspaper being guilty of any contravention of any of the provisions of the Act, the Lieutenant-Governor-in-Council, upon a 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 source specified in the order.

10

Section 7 provides for penalties for contraventions or defaults in complying with any requirement of the Act.

The policy referred to in the preamble of the Press bill regarding which the people of the province are to be informed from the government standpoint, is undoubtedly the Social Credit policy of the government. The administration of the bill is in the hands of the Chairman of the Social Credit Board who is given complete and discretionary power by the bill. "Social Credit," according to sec. 2 (b) of ch. 3, 1937, second session, of the Alberta Social Credit Amendment Act is

"the power resulting from the belief inherent within society 20  
that its individual members in association can gain the objectives  
they desire";

and the objectives in which the people of Alberta must have a firm and unshaken belief are the monetization of credit and the creation of a provincial medium of exchange instead of money to be used for the purposes of distributing to Albertans loans without interest, per capita dividends and discount rates to purchase goods from retailers. This free distribution would be based on the unused capacity of the industries and people of the province of Alberta to produce goods and services, which capacity remains unused on account of the lack or absence of purchasing power in the con- 30  
sumers in the province. The purchasing power would equal or absorb this hitherto unused capacity to produce goods and services by the issue of Treasury Credit certificates against a Credit Fund or Provincial credit account established by the Commission each year representing the monetary value of this "unused capacity"—which is also called "Alberta credit."

It seems obvious that this kind of credit cannot succeed unless every one should be induced to believe in it and help it along. The word "credit" comes from the latin: *credere*, to believe. It is, therefore, essential to control the sources of information of the people of Alberta, in order to keep them immune from any vacillation in their absolute faith in the plan of the 40  
government. The Social Credit doctrine must become, for the people of Alberta, a sort of religious dogma of which a free and uncontrolled discussion is not permissible. The bill aims to control any statement relating to any policy or activity of the government of the province and declares this object to be a matter of public interest. The bill does not regulate the

relations of the newspapers' owners with private individual members of the public, but deals exclusively with expressions of opinion by the newspapers concerning government policies and activities. The pith and substance of the bill is to regulate the press of Alberta from the viewpoint of public policy by preventing the public from being misled or deceived as to any policy or activity of the Social Credit Government and by reducing any opposition to silence or bring upon it ridicule and public contempt.

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I agree with the submission of the Attorney-General for Canada that this bill deals with the regulation of the press of Alberta, not from the  
10 viewpoint of private wrongs or civil injuries resulting from any alleged infringement or privation of civil rights which belong to individuals, considered as individuals, but from the viewpoint of public wrongs or crimes, i.e., involving a violation of the public rights and duties to the whole community, considered as a community, in its social aggregate capacity.

Do the provisions of this bill, as alleged by the Attorney-General for Canada, invade the domain of criminal law and trench upon the exclusive legislative jurisdiction of the Dominion in this regard?

The object of an amendment of the criminal law, as a rule, is to deprive the citizen of the right to do that, apart from the amendment, he could  
20 lawfully do. Sections 130 to 136 of the Criminal Code deal with seditious words and seditious publications; and sect. 133 (a) reads as follows:—

“No one shall be deemed to have a seditious intention only because he intends in good faith,—

“(a) to show that His Majesty has been misled or mistaken in his measures; or

“(b) to point out errors or defects in the *government* or constitution of the United Kingdom, or of any part of it, or of Canada or *any province thereof*, or in either House of Parliament of the United Kingdom or of Canada, or *in any legislature*, or in the  
30 administration of justice; or to excite His Majesty's subjects to attempt to procure, by lawful means, the alteration of any matter of state; or

“(c) to point out, in order to their removal, matters which are producing or have a tendency to produce feelings of hatred and ill-will between different classes of His Majesty's subjects.”

It appears that in England, at first, criticism of any government policy was regarded as a crime involving severe penalties and punishable as such; but since the passing of Fox's Libel Act in 1792, the considerations now found in the above article of our criminal code that it is not criminal to  
40 point out errors in the Government of the country and to urge their removal by lawful means have been admitted as a valid defence in a trial for libel.

Now, it seems to me that the Alberta legislature by this retrograde Bill is attempting to revive the old theory of the crime of seditious libel by enacting penalties, confiscation of space in newspapers and prohibitions for actions which, after due consideration by the Dominion Parliament, have

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been declared innocuous and which, therefore, every citizen of Canada can do lawfully and without hindrance or fear of punishment. It is an attempt by the Legislature to amend the Criminal Code in this respect and to deny the advantage of sect. 133 (a) to the Alberta newspaper publishers.

Under the British system, which is ours, no political party can erect a prohibitory barrier to prevent the electors from getting information concerning the policy of the government. Freedom of discussion is essential to enlighten public opinion in a democratic State; it cannot be curtailed without affecting the right of the people to be informed through sources independent of the government concerning matters of public interest. 10  
There must be an untrammelled publication of the news and political opinions of the political parties contending for ascendancy. As stated in the preamble of the British North America Act, our constitution is and will remain, unless radically changed, "similar in principle to that of the United Kingdom." At the time of Confederation, the United Kingdom was a democracy. Democracy cannot be maintained without its foundation: free public opinion and free discussion throughout the nation of all matters affecting the State within the limits set by the criminal code and the common law. Every inhabitant in Alberta is also a citizen of the Dominion. The province may deal with his property and civil rights of a local and private 20 nature within the province; but the province cannot interfere with his status as a Canadian citizen and his fundamental right to express freely his untrammelled opinion about government policies and discuss matters of public concern. The mandatory and prohibitory provisions of the Press Bill are, in my opinion, *ultra vires* of the provincial legislature. They interfere with the free working of the political organization of the Dominion. They have a tendency to nullify the political rights of the inhabitants of Alberta, as citizens of Canada, and cannot be considered as dealing with matters purely private and local in that province. The federal parliament is the sole authority to curtail, if deemed expedient and in the public interest, 30 the freedom of the press and the equal rights in that respect of all citizens throughout the Dominion. These subjects were matters of criminal law before Confederation, have been recognized by Parliament as criminal matters and have been expressly dealt with by the criminal code. No province has the power to reduce in that province the political rights of its citizens as compared with those enjoyed by the citizens of other provinces of Canada. Moreover, citizens outside the province of Alberta have a vital interest in having full information and comment, favourable and unfavourable, regarding the policy of the Alberta government and concerning events in that province which would, in the ordinary course, be the subject of 40 Alberta newspapers' news items and articles.

I would, therefore, answer the question as to Bill No. 9 in the negative.

And I hereby certify the above to be my reasons and my answers to the questions referred to us by the Governor General in Council.

L. A. CANNON, J.

Re Bill No. 1.

*Legislative Assembly of Alberta (Bank Taxation)*

The judgment of CROCKET and KERWIN JJ. was delivered by

(C) KERWIN J.—In an opinion released simultaneously with this, I have expressed my views with reference to Bill No. 8 of the Legislative Assembly of Alberta being “An Act to Amend and Consolidate the Credit of Alberta Regulation Act.” The first question of the three referred to in that opinion relates to what is known as Bill No. 1 “An Act respecting the Taxation of Banks,” and it is to that Bill that I now direct my attention.

10 By section 2 (a) thereof:—

“(a) ‘Bank’ means 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 and elsewhere.”

By section 3, every bank which transacts business in the Province is required to pay annually to the Minister (the Provincial Secretary) on behalf of His Majesty for the use of the Province, in addition to any tax payable pursuant to any other Act, a tax of one-half of one per centum on  
20 the paid-up capital thereof, and a tax of one per centum on the reserve fund and undivided profits thereof. The Bill provides for returns to be made by every bank according to forms to be prescribed by the Minister, and contains additional sections to ensure the filing of such returns and the payment of the taxes.

Our attention has been called to the increase in the taxation of banks that would be effected by the provisions of this Bill. As Provincial legislation stood prior to the First Session of the Alberta Legislature in 1937, the tax on all banks doing business in the Province amounted to \$72,200 per annum. By chapter 57 of that session a tax was imposed which would  
30 increase the sum realized by \$140,000 per annum. The additional tax proposed by Bill 1 amounts to \$2,081,925 in each year.

It is argued that the magnitude of the tax proposed for this one province is such that if it were applied by each of the other provinces, it would have the effect of preventing banks from exercising their functions. That, of course, is not the situation confronting us. This Bill has been passed by the Legislative Assembly of one province only and, considering the enactment by itself, the amount of the impost is to be determined by the competent taxing authority. It is not for a court to say that a certain tax is  
40 exorbitant because, in addition to any expression of opinion being the particular or, it may be, the peculiar view of an individual judge, or even of a number of judges, that is not the function of the judiciary.

However, omitting any reference to other arguments which have been adduced against the power of the Alberta Legislature to enact into law such a Bill, I believe that the time has now arrived when the question left open by this Court in *Abbott v. City of St. John* (1908) 40 S.C.R. 597, must be

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considered. In that case, which concerned the validity of a tax by provincial legislation on a Dominion official, Davies J., dealing with the contention that provincial taxation might paralyze the Dominion Civil Service, stated:—

“ If, under the guise of exercising power of taxation, confiscation of a substantial part of official and other salaries were attempted, it would be then time enough to consider the question and not to assume beforehand such a suggested misuse of the power.”

The decision in the *Abbott* case was approved by the Judicial Committee in *Caron v. The King* (1924) A.C. 999, and in *Forbes v. Attorney General for Manitoba* (1937) A.C. 260. As pointed out at page 270 in the latter, an argument in *terrorem* similar to that raised in the *Abbott* case had been advanced and rejected in *Bank of Toronto v. Lambe* (1887) 12 A.C. 575. While Davies J. left the question open, Lord Hobhouse, speaking for the Board in the *Lambe* case, contented himself with stating that 10

“ their Lordships cannot conceive that when the Imperial Parliament conferred wide powers of local self-government on great countries such as Quebec, it intended to limit them on the speculation that they would be used in an injurious manner.”

In none of the three cases decided by the Judicial Committee, nor in the *Abbott* case, was it suggested that the Acts in question were not true taxing enactments but it is contended at Bar that the same cannot be said of the Bill under review and it therefore becomes necessary to investigate that submission. 20

In that connection we have been referred to certain other enactments passed by the Alberta Assembly. The first of these is The Alberta Social Credit Act, chapter 10 of the First 1937 Session, an Act which is still in force. It is unnecessary to detail the provisions of that Act as that has been done in the opinion delivered by My Lord the Chief Justice on the validity of Bills 1, 8 and 9. An examination of these provisions leaves no doubt in my mind that the Act is an attempt to regulate and control 30 banks and banking as those terms are used in head 15 of section 91 of the British North America Act.

In the Second 1937 Session was passed “ The Credit of Alberta Regulation Act.” The recitals in that Act are as follows:—

“ 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 40 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

“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.”

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The Act then requires, by appropriate provisions, every banker carrying on the business of banking within the province at the time of the coming into force of the Act to take out a licence, and also every employee of a bank. Except that this Act refers to banks and the business of banking, by name, and includes employees of banks, the sections are practically the same as those of Bill 8. The first and third recitals are omitted but the second is identical in each enactment. For the reasons given by me when considering Bill 8, all of which apply with even greater force to this Act, I consider the legislation would be *ultra vires* of the Province.

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Chapter 2, “An Act to provide for the Restriction of the Civil Rights of Certain Persons,” also passed in the Second 1937 Sessions, recites:—

“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

20 “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

“Whereas it is expedient that the business of Banking in the Province shall be controlled with the object of attaining for the People of Alberta the full enjoyment of property and civil rights in the Province;”

Section 3 provides:—

30 “Any person who is an employee of a banker and who is required to be licensed pursuant to any provision of ‘The Credit of Alberta Regulation Act’ shall not while unlicensed for any reason whatsoever, be capable of bringing, maintaining or defending any action in any Court of Civil Jurisdiction in the Province which has for its object the enforcement of any claim either in law or equity.”

This Act would fall with the one requiring a licence to be obtained.

40 On August 17, 1937, the Governor General in Council ordered that these two Acts together with one amending the Judicature Act be disallowed, and that such disallowance was duly signified by proclamation of the Lieutenant Governor of Alberta dated August 27, 1937, and published in the *Canada Gazette* on September 11, 1937. The Third 1937 Session was opened on September 24, 1937, and it was at this session that Bills Nos. 1 and 8 were passed and on October 5, 1937, reserved by the Lieutenant Governor for the signification of the pleasure of the Governor General.

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It would appear to be relevant at this stage to refer to *The Reciprocal Insurers Case* (1924) A.C. 328, and *In Re The Insurance Act of Canada* (1932) A.C. 41. The extract from the judgment in the former case, which was quoted with approval in the latter and there paraphrased, might, I think not inappropriately, be quoted and re-paraphrased for the purposes of the present inquiry. But what is even more important in my view is the statement in the former case, at page 332 of the report, that two Dominion statutes passed on the same day, one intituled "The Insurance Act, 1917," and the other "An Act to Amend the Criminal Code" were complementary parts of a single legislative plan and were "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* was pronounced *ultra vires* of the Dominion Parliament." In the present reference it is not admitted by counsel for the Attorney General of Alberta that Bill 1 is part of a single legislative plan but I can draw no other conclusion. It is true that none of the other legislation referred to has been previously declared beyond the competence of the Provincial Legislature but I have already indicated that, in my opinion, The Alberta Social Credit Act, The Credit of Alberta Regulation Act, and An Act to provide for the Restriction of the Civil Rights of Certain Persons are of that character.

The sequence of events after the disallowance of the three Acts is so significant that I can find no escape from the conclusion that, instead of being a taxing enactment, Bill 1 is merely a part of a legislative plan to prevent the operation within the Province of those banking institutions which have been called into existence and given the necessary powers to conduct their business by the only proper authority, the Parliament of Canada.

If this view be correct, then it follows that the Bill is not one covered by the decision of this Court in the *Abbott* case, nor by the decisions of the Judicial Committee in the three cases mentioned, but is governed by the *Reciprocal Insurers* case and *In Re The Insurance Act of Canada*.

For these reasons I would answer Question 1 in the negative.

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Re *Bill No. 8.*

*Legislative Assembly of Alberta (Credit Regulation).*

The judgment of CROCKET and KERWIN JJ. was delivered by

KERWIN J.—On October 5, 1937, three Bills were passed by the Legislative Assembly of the Province of Alberta but were reserved by the Lieutenant-Governor for the signification of the Governor General's pleasure. Pending consideration of the advice to be tendered to the Governor General as to the propriety of signifying or withholding signification of the Royal Assent to these Bills, the Governor General in Council referred to this Court three questions as to whether these Bills, or any of the provisions thereof, and in what particular or particulars, or to what

extent, were *intra vires* of the Legislature of the Province of Alberta. The Bills are numbered and intituled as follows :—

Bill No. 1. “ An Act Respecting the Taxation of Banks.”

Bill No. 8. “ An Act to Amend and Consolidate the Credit of Alberta Regulation Act.”

Bill No. 9. “ An Act to Ensure the Publication of Accurate News and Information.”

I propose to consider Question No. 2, referring to Bill No. 8.

Counsel for the Attorney-General of Canada submit that it would be  
10 *ultra vires* of the Provincial Legislature to enact this legislation because the subject matter falls under one or more heads of section 91 of the *British North America Act, 1867*.

In the factum of the Attorney-General of Canada appears a great mass of material, some of which was referred to on the argument. The admissibility and relevancy of a great part of it was objected to, but the Court heard what counsel desired to say upon the subject without determining the issues raised. None of it was relied upon by counsel for the Provincial Attorney-General. Some of this material is of such a character  
20 that it is clearly relevant and admissible while other parts are just as clearly irrelevant and inadmissible. However, it is unnecessary to determine the exact line that separates the one class from the other since, after a detailed examination of the provisions of the Bill itself, I have arrived at the conclusion that the Bill *in toto* is *ultra vires* of the Provincial Legislature.

The Bill contains the following recital :—

“ 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  
30 available to the Province and to the People collectively and individually of the Province.”

Section 2 is the definition section and is as follows :—

“ 2. In this Act, unless the context otherwise requires,—

(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  
40 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 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

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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 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." 1)

By subsection 1 of section 3 "every credit institution which at the time of the coming into force of this Act is carrying on the business of dealing in credit within the Province" shall within twenty-one days thereafter apply for and obtain a licence from the Commission in respect of such business, and every application is to be accompanied by the necessary fee. By subsection 3 of section 3 every such application is also to be accompanied by an undertaking 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 20 persons within the province. By subsection 4 of section 3 the Commission is given power at any time or from time to time and without notice, to suspend, revoke or cancel the licence of any credit institution which commits a breach of the undertaking.

Under section 5, any credit institution which carries on the business of dealing in credit in the Province without having first obtained a licence, or who violates any other provisions of the Act or the regulations made thereunder, is to incur a penalty of ten thousand dollars for each day during which it carries on business without a licence, "and every such penalty may be recovered by action brought on behalf of the Crown by the Provincial 30 Treasurer in any court of competent jurisdiction as a debt due to the Crown." I refer to section 5 at this stage because by subsection 5 of section 3 any credit institution whose licence has been suspended, revoked or cancelled by the Commission is given a right to appeal to the Board but, as I read the concluding part of this subsection, no such right of appeal extends to any credit institution against which a judgment has been entered pursuant to section 5, on the ground or for the reason that the institution had acted, or assisted, or encouraged any person to act in a manner which restricts or interferes with the property or civil rights of any person within the Province. That is, under section 5, the penalty referred to may be incurred by reason 40 of several things but, if it happens that judgment is given for such penalty by reason of the specific matters referred to in the latter part of subsection 5 of section 3, the right which an institution would otherwise have to appeal to the Board from the suspension, revocation or cancellation of its licence by the Commission no longer exists.

Reverting to section 3, provision is made by subsections 6 and 7 thereof for an annual licence fee in such amount as may be fixed by the Commissioner, not exceeding an amount equivalent to one hundred dollars in respect of every building within the Province in which the business of such credit institution is conducted; but, if the licence has been suspended, revoked or cancelled, the Commission may, for renewing the licence or issuing a new one, fix a fee in excess of that mentioned, provided that such increased fee is not to exceed one thousand times the fee paid or required to be paid in respect of the licence last issued to such institution.

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10 By section 4 “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,” one or more Local Directorates (the number of which is to be in the absolute discretion of the Board) shall be appointed to supervise, direct and control the policy of the business of dealing in credit of such institution in respect of which such Local Directorate has been appointed. Each Local Directorate is to consist of five persons, three of whom are to be appointed by the Board and two by the credit institution, and provision is made for the dismissal of any of the Board’s appointees.

20 It will be observed that under clause A of the definition section the entire business of a “credit institution” need not be that of dealing in credit but it is sufficient if part only falls within that category. By clause (b) of section 2, an institution is dealing in credit, either wholly or in part, only when “*the aggregate amount of all credit. . . . . is in excess of the total amount of legal tender in the possession of the credit institution.*” This is important because it is only in such an event that the “business of dealing in credit” means business transactions in the Province “whereby credit is created, issued, lent, provided or dealt in by means of bookkeeping entries,” and the business transactions which the Bill purports to cover are only

30 those whereby credit is created, etc., by means of bookkeeping entries.

In my opinion these transactions fall within the meaning of the term “banking” as used in head 15 of section 91 of the British North America Act. As pointed out by Lord Watson, speaking for the Judicial Committee, in *Tennant v. Union Bank of Canada* (1894) A.C. 31, at page 46, the words used in head 15 of section 91, “Banking, Incorporation of Banks, and the Issue of Paper Money” are “wide enough to embrace every transaction coming within the legitimate business of a banker.” The nature of such business “is a part of the law merchant and is to be judicially noticed by the Court.” per Lord Campbell, during the course of the argument in *The*

40 *Bank of Australasia v. Breillat* (1847), 6 Moo. P.C. 152, at page 173, referring to *Brandao v. Barnett* (1846) 12 Cl. and F. 787.

Accordingly, upon referring to the New English (Oxford) Dictionary we find that the word “credit,” which is used in the Bill, is defined as “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”; and at page 48 of the

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third volume of the 14th edition of the Encyclopaedia Britannica, under the title “Banking and Credit” appears the following paragraph:—

“Banks create credit. It is a mistake to suppose that bank credit is created to any important extent by the payment of money into the banks. Money is always being paid in by tradesmen and others who receive it in the course of business, and drawn out again by employers to pay wages and by depositors in general for use as pocket money. But the change of money into credit money and of credit money back into money does not alter the total amount of the means of payment in the hands of the community. When a bank lends, by granting an advance or discounting a bill, the effect is different. Two debts are created; the trader who borrows becomes indebted to the bank at a future date, and the bank becomes immediately indebted to the trader. The bank’s debt is a means of payment; it is credit money. It is a clear addition to the amount of the means of payment in the community. The bank does not lend money. The borrower can, if he pleases, take out the whole amount of the loan in money. He is in that respect in the same position as any other depositor. But like other depositors he is likely in practice to use credit for all major payments and only to draw out money as and when needed for minor payment.”

It is not necessary to refer to the various schools of economists with their divergent views as to the extent to which banks create credit or as to the wisdom or otherwise of a state empowering such institutions to do so. It suffices that by current common understanding a business transaction whereby credit is created, issued, lent, provided or dealt in by means of bookkeeping entries is considered to be part of the business of banking as it has been practised and developed. It is well known that in addition to creating credit banks also issue, lend, provide and deal in credit by means of bookkeeping entries.

That bankers are contemplated by Bill 8 as being the credit institutions to be licensed seems evident from the direction in section 3, subsection 1, that an application for a licence is to be made by “every credit institution which at the time of the coming into force of this Act is carrying on the business of dealing in credit within the province”; thus envisaging only institutions of that character which are already carrying on business; and banks are the only ones answering that description under the restrictions embodied in that part of clause (b) of section 2 quoted in an earlier part of these reasons and italicized. A construction might be placed upon other provisions of the Bill that would embrace such other institutions that desired to commence the defined business, but such a construction would be strained and the other is more consonant with the evident intention of the Bill as disclosed by its terms.

In addition to the terms already commented on, banks are plainly indicated by the following extract from clause (b) of section 2, which follows the statement of what “business of dealing in credit” means:—“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." The transactions specifically mentioned form part of an ordinary banking business; and the exception of the Bank of Canada from "a credit institution or any other person," in clause (b) of section 2, strengthens the conclusion that banks are the institutions covered by the provisions of the Bill.

10 The reference in the Bill to "property and civil rights within the province" does not touch the point as almost any Act of Parliament relating to the matters assigned to its jurisdiction would affect property and civil rights, and it would still be valid. According to several decisions of the Judicial Committee, even if in some aspects the matters dealt with by this Bill could be said to fall within head 13 of section 92 (as to which I express no opinion), the final words of section 91 exclude provincial authority as the pith and substance of the Bill bring it within one of the enumerated subjects assigned to Parliament "notwithstanding anything in this Act."

20 The control to be exercised over credit institutions is far reaching. In addition to the undertaking required by every applicant for a licence and the provisions providing for a fee and an increased fee, and in addition to the powers conferred to suspend, revoke or cancel a licence, Local Directorates are to be appointed, a majority of whose members shall be nominees of the Board. Then, by section 8, the Commission, with the approval of the Lieutenant-Governor in Council, may make regulations:—

"(e) prescribing the privileges, terms, conditions, limitations and restrictions to be granted to or observed by any licensee;

"(f) prescribing the conditions upon which licences may be issued and providing for the revocation, suspension or withholding of licences;"

30 The regulations, however, are not restricted to the matters dealt with by the Bill. While undoubtedly they could not go beyond the powers possessed by the Legislature itself, it is sufficient, according to the opening phrase of section 8, that the regulations be "not inconsistent with this Act." All these provisions are significant as indicating that the Bill is not a taxing enactment but an attempt to regulate and control every bank and the business of banking.

There remains for consideration the effect of the concluding phrase in clause (b) of section 2,—

40 "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,"

and of section 7:—

"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."

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*re Credit  
Regulation*  
—continued.

As to the former, it is contended by counsel for Alberta that, if, omitting the concluding phrase, only banks would be covered, the entire clause is not unintelligible but there might remain in fact no institutions to which the clause could apply; that it would, therefore, be nugatory and it could not be declared to be beyond the competence of the Provincial Legislature to enact the Bill as a law. But it is a sound principle in the construction of enactments that the Court will not presume an intention to enact a meaningless statute or section and here the correct interpretation appears to be that banks were intended to be and are covered by the definition, and that the last part of section 2, clause (b) was added in an effort to save legislation which on the proper construction of the other provisions of the Bill is unconstitutional. The same remarks apply to section 7. 10

In *The King v. Nat Bell Liquors Ltd.* (1922) 2 A.C. 128, Lord Sumner, speaking for the Judicial Committee and discussing the effect of the repeal of a provision in the Alberta Liquor Act of 1916, which proposed 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 page 136:—

“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.” 20

This statement would appear at first sight to be in conflict with the statement by Lord MacNaghten in *Attorney General of Manitoba v. Manitoba Licence Holders’ Association* (1902) A.C. 73, at page 79, where, in dealing with the question as to the constitutionality of the Manitoba Liquor Act of 1900, his Lordship observes:— 30

“The Liquor Act proceeds upon a recital that ‘it is expedient to suppress the liquor traffic in Manitoba by prohibiting provincial transactions in liquor.’ That is the declared object of the legislature set out at the commencement of the Act. Towards the end of the Act there occurs this section:

‘119. While this Act is intended to prohibit and shall prohibit transactions in liquor which take place wholly within the province of Manitoba, except under a licence or as otherwise specially provided by this Act, and restrict the consumption of liquor within the limits of the province of Manitoba, it shall not affect and is not intended to affect bona fide transactions in liquor between a person in the province of Manitoba and a person in another province or in a foreign country, and the provisions of this Act shall be construed accordingly.’ Now 40

that provision is as much part of the Act as any other section contained in it. It must have its full effect in exempting from the operation of the Act all bona fide transactions in liquor which come within its terms."

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The principle to which Lord Sumner referred was expressed somewhat differently by Viscount Haldane in *Attorney General for Manitoba v. Attorney General for Canada* (1925) A.C. 561. That case had to do with the constitutionality of an Act of the Manitoba Legislature providing for the collection of a tax from persons selling grain for future delivery. At page 566 of the report Viscount Haldane refers to the principle by which the Courts determine whether a tax is direct or indirect, and explains:—

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"It does not exclude the operation of the principle if, as here, by s. 5, the taxing Act merely expressly declares that the tax is to be a direct one on the person entering into the contract of sale, whether as principal or as broker or agent. For the question of the nature of the tax is one of substance, and does not turn only on the language used by the local Legislature which imposes it, but on the provisions of the Imperial statute of 1867."

In *Attorney General for British Columbia v. Attorney General for Canada* (1937) A.C. 377, the Judicial Committee determined that the Dominion Natural Products Marketing Act, 1934, was *ultra vires* of the Parliament of Canada. At page 387, Lord Atkin, speaking for the Board, deals with the argument advanced that certain portions of the Act at least should be declared valid. It was urged that section 9 of the Act there under consideration was a valid exercise of the powers of the Dominion Parliament because it purported to deal only with inter-provincial or export trade; and Part 2 of the Act because it went no further than similar provisions in the Combines Investigation Act and was a genuine exercise of the Dominion legislative authority over criminal law; and stress was laid upon section 26 of the Act:—

"If it be found that Parliament has exceeded its powers in the enactment of one or more of the provisions of this Act, none of the other or remaining provisions of the Act shall therefore be held to be inoperative or *ultra vires*, but the latter provisions shall stand as if they had been originally enacted as separate and independent enactments and as the only provisions of the Act; the intention of Parliament being to give independent effect to the extent of its powers to every enactment and provision in this Act contained."

At the foot of page 388 of the report his Lordship deals with this argument stating:—

"There appear to be two answers. In the first place, it appears to their Lordships that the whole texture of the Act is inextricably interwoven, and that neither s. 9 nor Part II can be contemplated as existing independently of the provisions as to the creation of a Board and the regulation of products. There are no separate and independent enactments to which s. 26 could give a real existence. In the

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second place, both the Dominion and British Columbia in their Cases filed on this appeal assert that the sections now said to be severable are incidental and ancillary to the main legislation. Their Lordships are of opinion that this is true: and that as the main legislation is invalid as being in pith and substance an encroachment upon the Provincial rights the sections referred to must fall with it as being in part merely ancillary to it."

As applicable to the present case, the principle might be stated thus :—Unless certain provisions of the Bill are severable, such expressions as are found in the last part of clause (b) of section 2 and in section 7 have no effect, if upon a consideration of the entire legislation the conclusion is reached that the subject matter dealt with is beyond the powers of the enacting authority. For the reasons given above, that is the conclusion I have arrived at and I would therefore answer question 2 in the negative. 10

(C) Kerwin  
J. (con-  
curred in by  
Crocket J.)  
*re Press  
Bill.*

Re *Bill No. 9  
Legislative Assembly of Alberta (Press Bill)*

The judgment of CROCKET and KERWIN JJ. was delivered by

KERWIN J.—The third question submitted to the Court by the Governor General in Council asks our opinion as to whether Bill No. 9 of the Legislative Assembly of Alberta, "An Act to Ensure the Publication of Accurate News and Information," (hereafter referred to as the Press Bill) is *intra vires* of the Legislature of that province. It has already been noted that this Bill was passed at the same time as Bills 1 and 8. After reciting that "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," section 2 (a) defines the word "Chairman" as used in the Bill as "the Chairman of the Board constituted by section 3 of The Alberta Social Credit Act." By section 3 of the Press Bill "every person who is the 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." The additional provisions of section 3 do not require our attention nor do the provisions of section 5, which prohibit any action for libel by reason of the publication of such statement. 20 30 40

Section 4 enacts that, within twenty-four hours after the delivery of a written requisition by the Chairman, every person who is the proprietor, etc., of any such newspaper shall give 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 requirement.

Six and seven are the penalizing sections, and whatever their effect (as to which counsel disagree) must stand or fall with the substantive sections 3 and 4.

The obligations imposed by these sections become operative only upon the requisition of the Chairman of a Board, which was to be constituted under the terms of another Bill which I have already indicated is, in my opinion, *ultra vires*. The peculiar situation therefore exists that, in answering the question as to one piece of legislation, it became necessary to consider the provisions of another, which was not specifically referred to the Court, and the conclusion was reached that the latter was *ultra vires* of the Provincial Legislature; and it is by a section of that Bill that the Board, by virtue of the actions of whose Chairman sections 3 and 4 of the Press Bill can have any operation, was established. However, the result appears to be that the Press Bill is part of the same legislative plan that, in my opinion, is outside the powers conferred upon the provinces, and that the part must suffer the fate of the whole.

Other objections against the validity of the Press Bill were urged but I refrain from expressing any opinion upon them. They raise important constitutional questions, the consideration of which I prefer to postpone until the need to do so arises.

For the above reasons I would answer question 3 in the negative.

WE HEREBY CERTIFY to His Excellency the Governor General in Council that the foregoing are our reasons for the answers to the questions referred herein for hearing and consideration.

OSWALD S. CROCKET, J.

P. KERWIN, J.

(D) HUDSON, J.—I concur in the answers proposed by the other members of the Court on the various questions submitted in this reference.

It is clear that the three bills submitted are part of one legislative scheme, the central measure of which is The Alberta Social Credit Act. That Act has been the subject of a searching analysis by my Lord the Chief Justice and I concur in his reasons for holding that it is beyond the powers of the legislature.

Section ninety-one of the British North America Act allots exclusive legislative authority to the Dominion in all matters coming within the following classes of subjects :

- 91 (2) The regulation of trade and commerce;
- 91 (14) Currency and coinage;
- 91 (15) Banking, incorporation of banks and the issue of paper money;
- 91 (16) Savings banks;
- 91 (18) Bills of exchange and promissory notes;
- 91 (19) Interest;
- 91 (20) Legal tender.

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continued.*



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J.—con-  
tinued.

Read together these have a cumulative effect, I think, much greater than if individual headings were taken separately. This is especially so when the object of the measure under consideration is the establishment by a province of a new economic order such as the Social Credit Act. So read they strongly reinforce the reasons already given against the validity of this Act.

It is interesting to observe that the Bank of Canada Act, 1934 (Dominion) establishes a central bank "to regulate credit and currency in the best interests of the economic life of the nation, to control and protect the external value of the national monetary unit and to mitigate by its influence fluctuations in the general level of production, trade, prices and employment so far as may be possible within the scope of monetary action and generally to promote the economic and financial welfare of the Dominion." No one doubts the constitutionality of this Act; in fact the bill entitled "An Act to amend and consolidate the Credit of Alberta Regulation Act" expressly exempts from its operations the Bank of Canada.

In essence the Alberta legislative scheme is one to set up a new form of credit and currency within a single province.

I also concur in the reasons given by my Lord the Chief Justice for holding as beyond the legislative competence of the legislature the bills entitled respectively "An Act respecting the taxation of banks," and "An Act to amend and consolidate the Credit of Alberta Regulation Act."

I concur in the views of the other members of the Court that the bill entitled "An Act to ensure the publication of accurate news and information" is *ultra vires*, because it is ancillary to and dependent upon the Alberta Social Credit Act, but refrain from expressing any views as to the boundaries of legislative authority as between the provinces and the Dominion in relation to the press. It is a problem with many facets with which I hesitate to deal until presented to us in a more concrete form.

I Hereby Certify to His Excellency the Governor General in Council that the foregoing are my reasons for the answers to the questions referred herein for hearing and consideration.

A. B. HUDSON, J.

## No. 42.

Order in Council granting special leave to appeal to His Majesty in Council.

AT THE COURT AT BUCKINGHAM PALACE

The 16th day of May 1938.

PRESENT

THE KING'S MOST EXCELLENT MAJESTY

\* \* \* \* \*

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 10th day of May 1938  
10 in the words following, viz :—

“ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Your Majesty's Attorney-General of Alberta in the matter of an Appeal from the Supreme Court of Canada in the matter of three Bills passed by the Legislative Assembly of the Province of Alberta at the 1937 (Third Session) thereof entitled respectively :—

“ ‘ An Act Respecting the Taxation of Banks ’ ;

20 “ ‘ 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 between the Petitioner Appellant and Your Majesty's Attorney-General of Canada Your Majesty's Attorney-General of British Columbia the Chartered Banks of Canada the Canadian Press the Canadian Daily Newspapers Association the Canadian Weekly Newspapers Association the Northwestern Publishers Limited (*Edmonton Journal*) the Southwestern Publishers Limited (*Calgary Herald*) the Lethbridge Herald Company Limited (*Lethbridge Herald*) the Alberta Free Press Limited (*Edmonton Bulletin*) the Albertan Publishers Limited (*Calgary Albertan*) the Medicine Hat News Limited (*Medicine Hat News*) and the Alberta Division Canadian Weekly Newspapers Association Respondents setting forth (amongst other matters) that the Governor-General of Canada in Council by Order dated the 2nd November 1937 made under section 55 of the Supreme Court Act (R.S. Canada 1927 c. 35) referred to the Supreme Court for its opinion questions relating to the power of the Legislature of the Province of Alberta to pass three Bills which had been presented to  
30  
40 the Lieutenant-Governor of Alberta for Assent on the 5th October

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—  
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Council.*

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1937 and were then reserved for the signification of the pleasure of the Governor-General: that by Judgment delivered on the 4th March 1938 these questions were answered adversely to the legislative power to enact any of the Bills: that by the Order in Council the Court was invited to answer a separate question with regard to each Bill the questions being expressed as follows:—

“ ‘ 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 ? ’ ”

10

“ ‘ 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 ? ’ ”

that the Petitioner humbly submits that this Judgment raises 20  
important and far reaching questions with regard to the matters  
which are proper to be considered in determining the validity of the  
enactments of a legislature which within its field has unlimited  
legislative jurisdiction and particularly the validity of Bills which  
have been passed by a provincial legislative assembly constituted  
under or by reference to the British North America Act 1867 and are  
standing for the significance of the pleasure of the Governor-General :  
And humbly praying Your Majesty in Council to order that the  
Petitioner shall have special leave to appeal from the Judgment of the  
Supreme Court of the 4th March 1938 or for such further or other 30  
Order as to Your Majesty in Council may appear fit :

“ THE LORDS OF THE COMMITTEE in obedience to His late  
Majesty’s said Order in Council have taken the humble Petition into  
consideration and having heard Counsel in support thereof and Your  
Majesty’s Attorney-General of Canada having through his Solicitors  
signified in writing his consent to the prayer thereof Their Lordships  
do this day agree humbly to report to Your Majesty as their opinion  
that leave ought to be granted to the Petitioner to enter and prosecute  
his Appeal against the Judgment of the Supreme Court of Canada  
dated the 4th day of March 1938 :

40

“ And Their Lordships do further report to Your Majesty that  
the authenticated copy under seal of the Record produced by the  
Petitioner upon the hearing of the Petition ought to be accepted

(subject to any objection that may be taken thereto by the Respondents) as the Record proper to be laid before Your Majesty on the hearing of the Appeal.”

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of the Dominion of Canada for the time being and all other persons  
10 whom it may concern are to take notice and govern themselves accordingly.

*In the Privy Council.*

No. 42.

Order in Council granting special leave to appeal to His Majesty in Council, 16th May, 1938—*continued.*

M. P. A. HANKEY.

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# In the Privy Council.

No. 48 of 1938.

## ON APPEAL FROM 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.

BETWEEN

THE ATTORNEY GENERAL OF ALBERTA  
*Appellant*

AND

THE ATTORNEY GENERAL OF CANADA ;  
THE CANADIAN PRESS AND NEWS-  
PAPERS' ASSOCIATIONS ; THE  
ALBERTA PRESS ; THE CHARTERED  
BANKS OF CANADA AND THE  
ATTORNEY GENERAL OF BRITISH  
COLUMBIA - - - - *Respondents.*

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## RECORD OF PROCEEDINGS.

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CHARLES RUSSELL & CO.,

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