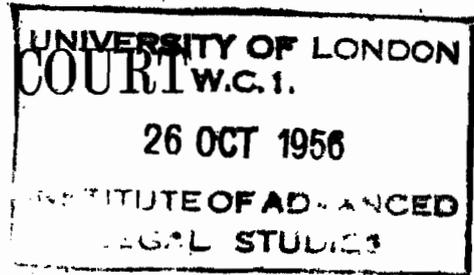


In the Privy Council.

No. 22 of 1947.

**ON APPEAL FROM THE SUPREME COURT
OF ALBERTA.
(APPELLATE DIVISION.)**



44917

**IN THE MATTER OF THE CONSTITUTIONAL QUESTIONS ACT
AND**

**IN THE MATTER OF A REFERENCE to the Supreme Court of Alberta
to determine the validity of The Alberta Bill of Rights Act, being
Chapter 11 of the Statutes of Alberta, 1946.**

BETWEEN

THE ATTORNEY-GENERAL OF ALBERTA ... APPELLANT

AND

**THE ATTORNEY-GENERAL OF CANADA and THE
CANADIAN BANKERS' ASSOCIATION ... RESPONDENTS**

— AND BETWEEN —

THE ATTORNEY-GENERAL OF CANADA ... APPELLANT

AND

THE ATTORNEY-GENERAL OF ALBERTA ... RESPONDENT.

(Consolidated Appeals.)

**CASE FOR THE CANADIAN BANKERS' ASSOCIATION
THE SECOND RESPONDENT IN THE FIRST APPEAL.**

1.—The Legislature of the Province of Alberta passed The Alberta Bill of Rights Act, Chapter 11 of the Statutes of Alberta, 1946, which was assented to on March 27th, 1946. Section 28 of the Act required that the

CASE
BANKERS

question of its validity be referred to the Supreme Court of Alberta pursuant to the provisions of The Constitutional Questions Act, being Chapter 115, R.S.A. 1942, before it should be brought into force by Proclamation of the Lieutenant Governor in Council.

2.—The Lieutenant Governor in Council by Order-in-Council No. 977/46, dated June 6th, 1946, referred the following question for hearing and consideration to the Appellate Division of the Supreme Court of Alberta, namely :—

“ Is The Alberta Bill of Rights Act, being Chapter 11 of the
 “ Statutes of Alberta, 1946, *intra vires* the Legislature of Alberta, 10
 “ either in whole or in part, and if so, in what part or parts, and
 “ to what extent ? ”

3.—By Order of the Honourable the Chief Justice of the Supreme Court of Alberta, Appellate Division, dated June 7th, 1946, it was directed that the argument of the question referred to in the said Order-in-Council be set down for hearing at the sittings of the Court commencing on September 16th, 1946, and that a copy of the said Order-in-Council and of the Act be served upon The Canadian Bankers' Association and the Dominion Government.

4.—Argument on the question was heard in due course by Harvey C.J. 20 and Ford, O'Connor, Macdonald and Parlee J.J. The Attorney-General of Alberta appeared and submitted argument in support of the validity of the Statute. The Attorney-General of Canada was represented by Counsel, who submitted that the Act was wholly invalid. Counsel also appeared on behalf of The Canadian Bankers' Association and argued that Part II of the Act was *ultra vires* the legislature of the Province.

5.—By its Judgment, dated December 17th, 1946, the Supreme Court of Alberta, Appellate Division, gave its unanimous opinion that Part I of The Alberta Bill of Rights Act was *intra vires* and Part II thereof was *ultra vires* the Legislature of the Province of Alberta, from which 30 Judgment the Attorney-General of Canada and the Attorney-General of Alberta were each given leave to appeal.

6.—The provisions of The Alberta Bill of Rights Act may be summarized as follows :—

The preamble recites, *inter alia*, that The British North America Act imposes upon the Province the constitutional responsibility of providing its citizens with an opportunity to realize and enjoy their property and civil rights and that the discharge of this responsibility requires that its citizens have the necessary access to their resources so that they may produce the goods and services they require and provide for their equitable 40 distribution and,

“ Whereas the control of policy with respect to the issue, use
 “ and withdrawal of credit primarily determines the extent to
 “ which the citizens of Alberta may develop and enjoy the use of
 “ their resources and therefore must be a function of the electorate
 “ of the Province to be discharged on their behalf by their
 “ democratically elected representatives.”

Under the Act the term “ Social Security Pension ” is defined to mean the payment to citizens of Alberta of :

10 “ claims on goods and services within the limitations of the
 “ natural resources of the Province and the productive capacity
 “ of the people, to ensure an annual income of not less than
 “ six hundred dollars a year on the basis of the 1945 price level
 “ for every single citizen of Alberta nineteen years of age and
 “ over.”

Part I, comprising Sections 3 to 14 inclusive, sets forth and declares certain well-established and existing rights of Alberta citizenship and the right of every citizen to gainful employment or, if such employment is not available, to a social security pension and to educational, medical and retirement benefits.

20 Part II of the Act (Sections 15 to 27) provides for the creation of a Board of Credit Commissioners to maintain an accounting of the estimated capitalized productive resources of the Province, expressed in monetary terms, and for the issue of credit deposits from this accounting for the payment of social security pensions, educational and medical benefits, reduction of taxation, grants to educational, health or municipal authorities and the reduction of retail prices by means of subsidies.

In order to control and regulate the issue, withdrawal and transfer of credit deposits provision is made for the licensing and regulation of all
 30 “ credit institutions ” operating in the Province and for their being required to obtain from the Board “ Alberta Credit Certificates ” as a reserve for the issuance of “ credit deposits ” to customers over and above deposits against which a reserve of currency is held.

Certain terms, as used in Part II, are defined by Section 15.

“ Alberta Credit Certificates ” mean :

“ Certificates issued to credit institutions authorizing a corresponding amount of credit deposits and issued in such form and
 “ in such denominations as the Board may specify for the purposes
 “ of carrying into effect the provisions of this Act.” (Section 15 (a).)

“ Credit ” is defined as meaning :

40 “ the monetary evaluation of the capacity of the people of the
 “ Province to produce goods and services as when and where
 “ required.” (Section 15 (d).)

“ Credit Deposits ” mean :

“ deposits of credit which have been made available to persons
 “ as claims on goods and services and in respect of which credit

“institutions have no corresponding reserve of ‘currency.’”
(Section 15 (e).)

“Credit Institution” is defined to mean :

“any person, corporation or organization whose main business
“is dealing in credit by keeping accounts of customers’ credit
“deposits, transferring credit deposits from the account of any
“customer to any other person, exchanging credit deposits for
“currency or making credit deposits available to customers ; but
“shall not include any person, corporation or organization whose
“main business is the production or distribution of goods or 10
“the rendering of any service to the public which is not concerned
“mainly or exclusively with dealing in credit deposits ; and likewise
“shall not include the Bank of Canada or credit unions operating
“pursuant to The Credit Union Act.” (Section 15 (f).)

“Currency” means :

“coins, Dominion notes, Bank of Canada notes and bank notes
“circulating in Canada and legally recognized as money under
“The Currency Act, the Bank of Canada Act and The Bank Act.”
(Section 15 (g).)

“Purchasing Power” is defined as meaning :

“the currency and credit deposits which are available for the
“purchase of goods and services by ultimate consumers.”
(Section 15 (h).)

20

Section 16 (1) provides for the appointment by the Lieutenant Governor in Council of a Board of Credit Commissioners which is given authority (Section 17 (1) to license, all credit institutions, to fix the fees therefor and to make regulations for the issue, cancellation and renewal of such licences.

Every credit institution operating in the Province shall, within one month after the Act comes into force, apply to the Board for a licence.
(Section 17 (2).)

30

Every credit institution which carries on operations in the Province without having first obtained a licence shall be guilty of,

“a separate offence with respect to each branch or agency in the
“Province in which it carries on operations and shall be
“liable for each such offence to a penalty”

of not less than \$1,000.00 and not more than \$5,000.00 for each day it so carries on operations. (Section 17 (3).)

It is provided further (Section 17 (4)) that, if any credit institution in the Province operates without a licence, the Board (with the approval of the Lieutenant Governor in Council)

40

“may enter the premises of such institution and assume full
“control and management of its business on behalf of its directors
“and shareholders,”

subject, however, to the proviso or limitation that nothing in the subsection

“ shall be deemed to empower the Board to take over or interfere
 “ with any operations which the credit institution is authorized
 “ to perform by virtue of the provisions of The Bank Act nor to
 “ impair in any way the deposits any person may have with the
 “ credit institution, nor to interfere with any such person, in
 “ dealing with his deposits in any way he may deem proper.”

Section 18 (1) directs the Board to establish and maintain a proper accounting in monetary terms of

- 10 “ the estimated capitalized productive resources of the Province
 “ being the estimated capitalized valuation of its
 “ credit which shall include an estimated valuation
 “ of the economic resources of the Province and shall
 “ include :
- “ (a) the natural resources of the Province, both developed and
 “ undeveloped ;
 - “ (b) buildings, plant, communication and transportation
 “ systems and other public utilities ;
 - “ (c) the capitalized productive capacity of the people of the
 “ Province,
- 20 “ all of which shall be shown as capital assets of the Province.”

The subsection also states that the account to be so kept and maintained by the Board is to be known as “ the Capital Assets Account of Alberta.”

Section 18 (2) states that, in the Capital Assets Account of Alberta (to be kept as provided for in Section 18 (1)),

“ claims on goods and services issued against the capital assets
 “ of the Province, in the form of currency or credit deposits held
 “ by the people of Alberta, shall be shown as a liability.”

30 Section 19 requires and directs the Board to establish a further account to be known as “ the Consolidated Credit Adjustment Fund ” and, with the approval of the Lieutenant Governor in Council, the Board shall issue to or place to the credit of such Consolidated Credit Adjustment Fund credit deposits against or debited to the Capital Assets Account of Alberta

- “ in such amounts as may from time to time be required as
 “ a reserve for
 “ providing an adequate volume of credit deposits to finance the
 “ production and distribution of goods and services within the
 “ Province, and
 “ maintaining a balance between the aggregate purchasing power
 40 “ of the people of the Province and the estimated collective
 “ prices of goods for sale within the Province, and
 “ providing for their equitable distribution having due regard to
 “ all the factors involved.”

Section 20 (1) provides that from the Consolidated Credit Adjustment

Fund (constituted under Section 19 and consisting of the credit deposits charged against the Capital Assets Account of Alberta) the Board shall, with the approval of the Lieutenant Governor in Council,

“ transfer to the General Revenue Account of the Province such amounts of credit deposits as may be required for the following purposes, namely :

- “ (a) payment of social security pensions ;
- “ (b) payment of educational benefits ;
- “ (c) payment of medical benefits ;
- “ (d) reduction of taxation ;
- “ (e) grants to educational, health or municipal authorities ;
- “ (f) the reduction of retail prices to consumers by means of subsidies.”

10

Section 20 (2) states that

“ For the purpose of effectively controlling and regulating the issue and withdrawal of credit deposits the Board shall issue to licensed credit institutions Alberta Credit Certificates as the Board may deem advisable in order to enable such credit institutions to issue credit deposits to customers over and above deposits against which a reserve of 20 currency is held, and the amount of Alberta Credit Certificates so issued shall be debited to the Consolidated Credit Adjustment Fund.”

By Section 21 it is provided that the allocation of purchasing power from the Consolidated Credit Adjustment Fund (i.e., by the Board's issuance of Alberta Credit Certificates to credit institutions) :

“ shall not exceed such aggregate amount as may be required from time to time to bring the total purchasing power of the people of the Province into balance with estimated collective prices of the goods for sale within the Province.”

30

Section 22 (1) provides that :

“ Should the aggregate purchasing power of the people of the Province at any time exceed the estimated collective prices of the goods for sale within the Province ”

the Board shall immediately report to the Lieutenant Governor in Council “ the extent of this condition together with a recommendation for its correction.”

Section 22 (2) states that, upon receiving such report and recommendation, the Lieutenant Governor in Council

“ shall take steps forthwith to retire such excess purchasing power by one or more of the following steps :

- “ (a) direction to the Board to withdraw Alberta Credit Certificates in whole or in part from licensed credit institutions on a *pro rata* basis ;

40

- “ (b) the reduction or withdrawal of subsidies being paid to
“ reduce the retail prices to consumers as herein provided ;
- “ (c) an increase in taxation for transfer to the credit of the
“ Consolidated Credit Adjustment Fund subject to the
“ approval of the Legislature ;
- “ (d) the reduction of social security pensions as herein provided.”

Upon such withdrawal of excess purchasing power the Board may cancel in the Consolidated Credit Adjustment Fund the amount of credit deposits so withdrawn or any part thereof. (Section 22 (3).)

10 Section 23 requires the Board to report quarterly to the Provincial Treasurer upon :

- (a) the extent to, and manner in, which the credit of the Province is being utilized,
- (b) the extent to which such credit in use is or is not adequate for the unrestricted production and distribution of goods and services,
- (c) the extent to which the purchasing power of the people is or is not adequate to purchase goods and services for sale in the Province,
- 20 (d) any action required to balance
“ the aggregate purchasing power with the collective prices
“ of goods and services and for the equitable
“ distribution thereof.”

Section 24 (1), which deals with the method of operation of credit institutions, provides that every licensed credit institution

- “ shall keep and operate the accounts of its customers, and
- “ arrange for the transfer of credit deposits by such
- “ instruments as the Board may direct and the Board
- “ shall at all times have access to the books, records
- “ and accounts of such credit institutions”

30 Subsection (2) states that the Board may require every licensed credit institution

- “ to hold against all or any credit deposits of customers, not
- “ being deposits against which a reserve of currency of an
- “ equivalent value is held, Alberta Credit Certificates of an
- “ aggregate value not exceeding the aggregate value of such
- “ credit deposits.”

Subsection 3 of Section 24 provides that in case any licensed credit institution has branches and operates outside Alberta

- 40 “ the proportion of its reserves of currency to its total deposits
- “ within the Province shall be deemed to be in the same ratio
- “ as its total reserves of currency to its total deposits in Canada.”

By Section 24 (4) the Board is authorized to direct that

- “ any balance due by one credit institution to another credit
- “ institution on account of any transfers of credit deposits between

“ their respective customers shall be settled by the transfer of
 “ Alberta Credit Certificates of a corresponding value.”

Section 25 empowers the Lieutenant Governor in Council to make regulations for carrying out and administering the provisions of the Act which regulations, upon their publication in The Alberta Gazette, shall have the same force and effect as though they had been enacted as part of the Act itself.

Any credit institution found guilty of violating any of the provisions of Part II of the Statute or of any regulations thereunder shall be liable to cancellation of its licence and also to a fine not exceeding \$1,000.00. 10
 (Section 26 (1).)

Any person (other than a credit institution) who violates any of such provisions of the Act or of the regulations is liable, on conviction, to a fine of not more than \$1,000.00 or one year's imprisonment or both. (Section 26 (2).)

Section 27 states that, notwithstanding the provisions of any other Statute of the Province,

“ all taxes, fees, dues and other payments thereunder may be made
 “ by the transfer of credit deposits in the forms and in the manner
 “ prescribed by the Board from time to time.” 20

7.—The answer to the question contained in the reference depends on the terms of The British North America Act, 1867, Section 91, of which provides :

“ It shall be lawful for the Queen by and with the advice and
 “ consent of the Senate and house of Commons to make laws for
 “ the peace, order and good government of Canada in relation to
 “ all matters not coming within the classes of subjects by this
 “ Act assigned exclusively to the Legislatures of the Provinces ;
 “ and for greater certainty but not so as to restrict the generality 30
 “ of the foregoing terms of this section it is hereby declared that
 “ (notwithstanding anything in this Act) the exclusive legislative
 “ authority of the Parliament of Canada extends to all matters
 “ coming within the classes of subjects next hereinafter enumerated
 “ that is to say :

* * * * *

“ 2. The regulation of trade and commerce ;

* * * * *

“ 14. Currency and coinage ;

“ 15. Banking, incorporation of banks and the issue of
 “ paper money ; 40

“ 16. Savings banks ;

* * * * *

“ 18. Bills of exchange and promissory notes ;

- “ 19. Interest ;
 “ 20. Legal tender ;
 “ 21. Bankruptcy and insolvency ;

* * * * *

“ 29. Such classes of subjects as are expressly excepted
 “ in the enumeration of the classes of subjects by this Act
 “ assigned exclusively to the Legislatures of the provinces.

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

Section 92 of that Act states :

“ In each province the Legislature may exclusively make laws in
 “ relation to matters coming within the classes of subjects next
 “ hereinafter enumerated ; that is to say :

* * * * *

“ 13. Property and civil rights in the province ;

* * * * *

20 “ 16. Generally all matters of a merely local or private
 “ nature in the province.”

8.—Under the powers granted to the Dominion Parliament by
 Section 91 of The British North America Act it has enacted various Acts
 relating to the classes of subjects enumerated therein, including the
 following :

- 30 (a) The Bank of Canada Act, 1934, Statutes of Canada, ch. 43 ;
 Amended 1936, Statutes of Canada, ch. 22, and 1938, Statutes
 of Canada, ch. 42 ;
 (b) The Central Mortgage and Housing Corporation Act, 1945 (second
 session), Statutes of Canada, ch. 15 ;
 (c) The Industrial Development Bank Act, 1944-45, Statutes of
 Canada, ch. 44 ;
 (d) The Bank Act, 1944, Statutes of Canada, ch. 30 ;
 (e) The Farm Improvement Loans Act, 1944-45, Statutes of Canada,
 ch. 41 ;
 (f) The National Housing Act, 1938, Statutes of Canada, ch. 49,
 Amended 1944-45, Statutes of Canada, ch. 46, 1945 (second
 session), Statutes of Canada, ch 26 and 1946 (second session),
 Statutes of Canada, ch. 61 ;
 40 (g) An Act to Incorporate The Canadian Bankers' Association, 1900,
 Statutes of Canada, ch. 93 ;
 (h) Department of Finance and Treasury Board Act, R.S.C. 1927,
 ch. 71, amended 1931, Statutes of Canada, ch. 48 ;

- (i) Bills of Exchange Act, R.S.C. 1927, ch. 16 amended 1934, Statutes of Canada, ch. 17 ;
- (j) The Currency Act, R.S.C. 1927, ch. 40, Amended 1931, Statutes of Canada, ch. 48.

Pursuant to The Bank Act and the Act incorporating The Canadian Bankers' Association, the Association has passed and The Treasury Board has approved bylaws regulating the settlement of balances and accounts as between the chartered banks through clearing houses.

9.—The language used in Section 91 of The British North America Act is popular rather than scientific and the classes of subjects thereby exclusively assigned to Parliament are not limited in their extent or scope by the nature of the laws or actual practices as they existed in 1867. 10

Attorney-General for Ontario v. Reciprocal Insurers (1924) A.C. 328, at p. 340 ;

Edwards v. Attorney-General for Canada (1930), A.C. 124, at p. 136 ;

Reference re Farmers' Creditors Arrangement Act, 1934 (1937) A.C. 391, at pp. 402–403 ;

Attorney-General for Ontario v. The Hamilton Street Railway Company (1903) A.C. 524, at pp. 528–9 ; 20

Proprietary Articles Trade Association v. Attorney-General for Canada (1931) A.C. 310, at p. 324 ;

Lethbridge Northern Irrigation District v. Independent Order of Foresters (1940) A.C. 513, at p. 530 ;

Croft v. Dunphy (1933) A.C. 156, at p. 163 ;

Reference re The Dominion Trade and Industry Commission Act, 1935 (1937) A.C. 405, at p. 418 ;

Tennant v. The Union Bank of Canada (1894) A.C. 31, at p. 46 ;

Provincial Secretary of Prince Edward Island v. Egan (1941) S.C.R. 396, at p. 401 ; 30

In re Regulation and Control of Radio Communication in Canada (1932) A.C. 304, at p. 314.

10.—The general character of the classes of subjects in paragraph 7 hereof that are included in Section 91 of the constituent Act indicates that it was intended that the monetary, credit and financial system of Canada should be controlled and regulated on a national basis.

Reference re Alberta Legislation (1938) S.C.R. 100, at pp. 115 and 162.

11.—If a subject matter falls within any of the classes of subjects specifically assigned to the Dominion Parliament it cannot be regarded as falling within the competence of the Provincial legislature. 40

Attorney-General for Canada v. Attorney-General for Quebec (1947) A.C. 33, at p. 43 ;

Attorney-General for Alberta v. Attorney-General for Canada (1943) A.C. 356, at p. 370 ;

Attorney-General for Alberta v. Attorney-General for Canada (1939) A.C. 117, at pp. 129, 130.

12.—Provincial legislation which interferes or is in conflict with enactments of the Dominion Parliament as to matters enumerated in Section 91 is invalid.

Tennant v. The Union Bank of Canada (1894) A.C. 31 ;

10 *Grand Trunk Railway v. Attorney-General for Canada* (1907) A.C. 65, at p. 68 ;

Attorney-General for Alberta v. Attorney-General for Canada (1943) A.C. 356.

13.—Provincial legislation cannot by a licensing system control, restrict or prohibit the carrying on by chartered banks of their business within the Province.

Reference re Alberta Legislation (1938) S.C.R. 100, at pp. 122 and 157 ;

Great West Saddlery Company, Limited v. The King (1921) 2 A.C. 91, at p. 102.

20 14.—At the time of the enactment of The British North America Act, 1867, dealing in credit by banks was not limited to the extent of their cash reserves.

Brandao v. Barnett (1846), 12 Cl. & Fin. 787, at p. 805 ;

The Bank of Australasia v. Breillat (1847) 6 Moo. P.C. 152, at pp. 173 and 194 ;

Foley v. Hill (1848) 2 H.L.C. 28, at pp. 39 and 45 ;

Banbury v. Bank of Montreal (1918) A.C. 626, at pp. 652-3 ;

Ramchurn Mullick v. Luchmeechund Radakissen (1854) 9 Moo. P.C. 43, at pp. 69-70 ;

30 *Ex parte Coe* (1861) 3 De G.F. & J. 334, at p. 338 ;

Davies v. Kennedy (1869) 17 W.R. 305, at pp. 310-1 ;

Copland v. Davies (1872) L.R. 5 H. of L. (E. & I. App.) 358, at p. 378 ;

Holdsworth—History of English Law, Vol. viii, at pp. 184-192 ;

Macleod—Theory and Practice of Banking, 6th ed., Vol 1, pp. 281, 283, 331-2 ;

Leaf—Banking, 4th ed., Oxford University Press, pp. 94-96 ;

Hart—Law of Banking, 4th ed., Vol. 1, p. 1 ;

Wood v. Stephenson (1859) 16 U.C.Q.B. 419 ;

40 An Act respecting Banks and Freedom of Banking, 1859 Statutes of Canada, ch. 55, secs. 1, 10, 82, 85, 89 and 109 ;

An Act relating to Banks and Banking, 1871 Statutes of Canada, ch. 5, secs. 1 and 13.

15.—The unanimous opinion of the Alberta Supreme Court, Appellate Division, delivered by the Honourable Chief Justice Harvey, held Part II of the Alberta Bill of Rights Act *ultra vires* the Provincial Legislature for the reason that :

- (a) all banks under The Bank Act, 1944–45, ch. 30, are admittedly included in the term “ credit institution ” as defined by the Act ;
- (b) Part II deals with banks and banking, a subject exclusively within the legislative competence of the Dominion Parliament by virtue of Section 91 of The British North America Act ;
- (c) the legislation purports to prohibit banks from carrying on their 10 business in the Province unless licensed thereunder.

His Lordship the Chief Justice cited and, in support of his judgment relied on :

Reference re Alberta Statutes (1938) S.C.R. 100 at pp. 115 and 116, affirmed (1939) A.C. 117 ;

Attorney-General for Canada v. Attorney-General for Quebec (1947) A.C. 33 ;

Tennant v. The Union Bank of Canada (1894) A.C. 31.

16.—It was, however, the unanimous opinion of the Court that Part I of the statute is *intra vires* the Provincial Legislature as it did not 20 appear to be in any way dependent on Part II for its validity.

17.—This Respondent respectfully submits that the judgment of the Supreme Court of Alberta (Appellate Division), insofar as it declares Part II of The Alberta Bill of Rights Act *ultra vires* the Legislature of the Province of Alberta, is right and ought to be affirmed and the appeal of the Attorney-General for the Province of Alberta dismissed for the following amongst other

REASONS.

- (1) Because Part II of the Act is legislation on subjects within the exclusive legislative jurisdiction of the Dominion 30 Parliament as specifically listed in Section 91 of The British North America Act, 1867, and is therefore beyond the legislative competence of the Province. The concluding clause of Section 91 has reference to all of the sixteen subjects enumerated in Section 92 and therefore the Provincial Legislature cannot make laws with respect to any matter which falls within one or more of the enumerated heads of Section 91.
- (2) Because the language describing the classes of subjects listed in Sections 91 and 92 of The British North America 40 Act, 1867, is popular rather than scientific and must be given a liberal construction.

- 10
- (3) Because the scope or extent of the classes of subjects enumerated in Section 91 of The British North America Act, 1867, and of what is comprised therein or covered thereby is not stereotyped by the nature of the legislative laws or actual practices which existed as at the date of its enactment.
 - (4) Because, in any event, the dealing in credit by banks at and prior to 1867 was not, as claimed by the Attorney-General for Alberta, limited in extent to their cash reserves.
 - (5) Because, even although the statute be not in pith and substance legislation as to matters exclusively assigned to the Dominion Parliament under one or more of the specific classes enumerated in Section 91 of The British North America Act, Part II of The Alberta Bill of Rights Act is invalid for the reason that it interferes or conflicts with existing valid Dominion Legislation.
 - (6) Because it seeks to prohibit the chartered banks from carrying on any of their business without a Provincial licence.

E. J. CHAMBERS.

In the Privy Council.

No. 22 of 1947.

ON APPEAL FROM THE SUPREME COURT OF
ALBERTA (APPELLATE DIVISION).

IN THE MATTER OF THE CONSTITUTIONAL QUESTIONS
ACT

AND

IN THE MATTER OF A REFERENCE to the Supreme
Court of Alberta to determine the validity of the
Alberta Bill of Rights Act, being Chapter 11 of
the Statutes of Alberta 1946.

BETWEEN

THE ATTORNEY-GENERAL OF ALBERTA
APPELLANT

AND

THE ATTORNEY-GENERAL OF CANADA
and the CANADIAN BANKERS' ASSOCIA-
TION RESPONDENTS

— AND BETWEEN —

THE ATTORNEY-GENERAL OF CANADA
APPELLANT

AND

THE ATTORNEY-GENERAL OF ALBERTA
RESPONDENT.

(Consolidated Appeals.)

CASE FOR THE CANADIAN BANKERS'
ASSOCIATION

THE SECOND RESPONDENT IN THE FIRST APPEAL.

LAWRENCE JONES & CO.,

Winchester House,

Old Broad Street, E.C.2,

Solicitors for the CANADIAN BANKERS' ASSOCIATION.