

# In the Privy Council.

No. 104 of 1936.

## ON APPEAL FROM THE SUPREME COURT OF CANADA.

IN THE MATTER of a Reference as to whether the Parliament of Canada had legislative jurisdiction to enact The Farmers' Creditors Arrangement Act, being Chapter 53 of the Statutes of Canada 1934, as amended by The Farmers' Creditors Arrangement Act Amendment Act, being Chapter 20 of the Statutes of Canada 1935.

BETWEEN

THE ATTORNEY-GENERAL OF BRITISH COLUMBIA *Appellant,*

AND

THE ATTORNEY-GENERAL OF CANADA AND THE  
ATTORNEYS-GENERAL OF THE PROVINCES  
OF ONTARIO, QUEBEC, NEW BRUNSWICK,  
MANITOBA, ALBERTA AND SASKATCHEWAN *Respondents.*

### CASE

OF THE RESPONDENT THE ATTORNEY-GENERAL OF ONTARIO.

1. This is an appeal from the judgment of the Supreme Court of Canada dated the 17th June, 1936, answering a question referred to the said court for hearing and consideration by order of His Excellency the Governor-General in Council dated the 18th November, 1935, P.C. 3578, touching the constitutional validity of the Farmers' Creditors Arrangement Act, Statutes of Canada 1934, Chapter 53, and the amending Act, Statutes of Canada 1935, Chapter 20. Record.  
p. 49  
p. 4, l. 17.

2. The question referred to and the answer of the Court are the following :—

10 Question. "Is the Farmers' Creditors Arrangement Act, 1934, as  
"amended by the Farmers' Creditors Arrangement Act Amendment  
"Act, 1935, or any of the provisions thereof, and in what particular or  
"particulars or to what extent, *ultra vires* of the Parliament of Canada?" p. 50, l. 3.

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Record.  
p. 50, l. 20.

Answer. "The Chief Justice, Mr. Justice Rinfret, Mr. Justice Crocket, Mr. Justice Davis and Mr. Justice Kerwin are of the opinion that the Statute is *intra vires*; Mr. Justice Cannon is of the opinion that the Statute (except Section 17) is *ultra vires*, and that Section 17 is *intra vires*."

pp. 51-57.

3. The reasons for judgment as delivered by the Honourable Sir Lyman P. Duff, the Chief Justice, indicate that the Statute is within the legislative jurisdiction of the Parliament of Canada, being a part of the general system for the administration of the assets of bankrupts and insolvents, and so coming within the enumerated powers conferred on the Parliament of Canada 10 by the British North America Act 1867, Section 91, Clause 21.

p. 57, l. 22,  
*et seq.*

4. Mr. Justice Cannon in his dissenting judgment finds the Act to be *ultra vires* of the Parliament of Canada (except as to Section 17, which he declares to be *intra vires*) as coming within the classes of subjects assigned exclusively to the Legislatures of the Provinces under Section 92 (16) and that Section 17 came within the legislative powers of the Parliament of Canada under Section 91 (19).

The Attorney-General of Ontario supports the judgment of the Honourable Mr. Justice Cannon, except as to Section 17, and as to that Section asserts that it must fall with the rest of the Act. 20

The Attorney-General of Ontario submits that the judgment of the Supreme Court of Canada, as delivered by the Honourable Sir Lyman P. Duff, Chief Justice, is wrong, and should be reversed upon the ground that it is an encroachment on the exclusive legislative powers of the Provinces under the British North America Act 1867, Section 92,

(13) Property and civil rights in the Province;

(16) Generally all matters of a merely local or private nature in the Province,

for the reasons set forth in the factum of the Attorney-General of Ontario in the Supreme Court of Canada; for the reasons set forth in the dissenting 30 judgment of the Honourable Mr. Justice Cannon and for such other reasons as may be advanced by counsel on the argument.

A. W. ROEBUCK.

I. A. HUMPHRIES.



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CASE OF THE RESPONDENT THE ATTORNEY-GENERAL OF ONTARIO.

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