

# Alberta Prosperity Certificates



## STATUTES OF THE PROVINCE OF ALBERTA - EIGHTH LEGISLATURE ASSEMBLY:

Chapter 5 1st Session 1936: An Act respecting Social Credit Measures. (*Assented to April 3, 1936.*)

Chapter 7 1st Session 1936: An Act to impose Taxes on the Ultimate Purchasers of Certain Commodities for Raising Revenue for Provincial Purposes. (*Assented to April 7, 1936.*)

Chapter 4 2nd Session 1936: An Act respecting Prosperity Certificates. (*Assented to September 1, 1936.*)

Chapter 83 3rd Session 1937: An Act to amend The Prosperity Certificates Act. (*Assented to June 17, 1937.*)

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STATUTES  
OF THE  
PROVINCE OF ALBERTA  
PASSED IN THE FIRST SESSION  
OF THE  
EIGHTH LEGISLATIVE ASSEMBLY

Begun and Holden at Edmonton, on Thursday, the Sixth  
day of February, 1936, and closed on Tuesday,  
the Seventh day of April

1936



His Honour  
WILLIAM LEGH WALSH  
Lieutenant Governor

# 1936

## CHAPTER 5.

### An Act respecting Social Credit Measures.

(Assented to April 3, 1936.)

**W**HEREAS under modern scientific conditions productive capacity is unlimited; and Preamble

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and unemployment throughout a large portion of the population demonstrates the fact that the present monetary system is obsolete and a hindrance to the efficient production and distribution of goods; and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

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 Social Credit Measures Act*." Short title

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

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

- (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;
- (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

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.

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.

# 1936

## CHAPTER 7.

### An Act to impose Taxes on the Ultimate Purchasers of Certain Commodities for Raising Revenue for Provincial Purposes.

(Assented to April 7, 1936.)

**H**IS 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 Ultimate Purchasers Tax Act.*" Short title
2. In this Act, unless the context requires a contrary meaning,—
  - (a) "Commodity" means all goods and chattels which are the subject matter of a sale by retail within the Province but does not include bread, milk, coal, gas, water, newspapers, farm machinery and repairs thereto, binder twine, electricity, agricultural products produced within the Province when sold by the producer thereof, fuel oil within the meaning of *The Fuel Oil Tax Act*, liquor within the meaning of *The Government Liquor Control Act of Alberta*, tobacco, sugar, flour, and any other commodities which are declared by the Lieutenant Governor in Council to be commodities to which this Act does not apply; "Commodity"
  - (b) "Minister" means the Provincial Treasurer or such other member of the Executive Council as is at any time designated by the Lieutenant Governor in Council; "Minister"
  - (c) "Purchaser" means a person who buys in the Province from a vendor any commodity for his own use or for any purpose other than the resale thereof; "Purchaser"
  - (d) "Sale" includes an agreement of sale whether absolute or conditional; and "Sale"
  - (e) "Vendor" means any person who in the Province sells in the course of his business or of continuous or successive acts any commodity to a purchaser thereof for his own use for any purpose other than the resale thereof. "Vendor"

3.—(1) On, from and after the first day of May, 1936, every person who purchases a commodity by retail for his own use or for any other purpose other than the resale thereof shall pay to His Majesty for the use of the Province at the time of making the purchase a tax of two per centum of the price of the commodity so purchased: Provided that Tax payable by retail purchaser

no tax shall be payable when the price of any one commodity purchased singly or the aggregate price of several commodities purchased on the same occasion and as part of the same transaction by the same purchaser does not exceed the sum of fifteen cents.

- Computation of tax (2) The tax shall be computed as follows:
- (a) The tax shall be computed on the price payable in respect of each separate purchase by retail;
  - (b) Where several commodities are purchased on the same occasion and as part of the same transaction by the same purchaser, the tax shall be payable on the aggregate price of the commodities so purchased; and
  - (c) Subject to the provisions of subsection (1) hereof where the price amounts to or includes a fraction of a dollar any fraction of a dollar which does not exceed fifty cents shall be treated and computed as fifty cents, and every such fraction which exceeds fifty cents and does not exceed a dollar shall be treated and computed as a dollar.
- Collection of tax (3) The tax shall be collected by the vendor from the purchaser for the use of the Province.
- Deposit on purchases for resale: (4) In case a vendor in the ordinary course of his business sells any commodity to a person who alleges that he is purchasing it for purposes of resale, the vendor shall nevertheless require such person to deposit with him for the use of the Province an amount equal to the tax which would be payable under this Act if that sale were made to a purchaser as herein defined, but the Minister shall refund the deposit on evidence satisfactory to him that the commodity was purchased for the purposes of resale and not for the use of the buyer.
- Refund
- Revenue officers 4. Every vendor and every person authorized to collect or receive the taxes from a vendor shall be a revenue officer within the meaning of *The Treasury Department Act* and shall be subject to the duties and liabilities of a revenue officer under that Act.
- Forwarding of tax to Minister by vendor 5.—(1) On or before the fifteenth day of each month the vendor shall forward to the Minister the amount of the tax which he has collected during the preceding month and any deposits received by him pursuant to this Act during the same period.
- Returns by vendor (2) With each remittance the vendor shall forward to the Minister upon a form prescribed by him a return showing the total amount of the tax collected and deposits received by him during the preceding month, and the return shall show such further information as the Minister requires and verified by his affidavit or statutory declaration if required.
- Power to enter premises and make inspections 6. Any person appointed by the Minister in writing for that purpose, which appointment may be general or specific,

may enter upon the premises of any vendor, from time to time, to ascertain whether the tax is being duly paid and collected during any specified period or to inspect and examine the books, records or documents or the premises generally of the vendor for the purpose of ascertaining the quantities of commodities on hand at any specified time or times or sold by him during any specified period, and the vendor shall answer all questions relating to those matters and shall produce to the person so appointed such books, records and documents as are required.

7. If any person appointed by the Minister pursuant to section 6 has cause to believe that any person has or had in his possession any commodity on which the tax was payable but has not been paid, he may without warrant enter upon the premises of the person suspected and make such inquiries and searches as are deemed necessary, and may interrogate such person concerning consumable things he has purchased, and such person shall produce for inspection by the person so appointed any consumable thing in his possession and answer any questions relating thereto.

Investigations of possessors of commodities for which tax not paid

8. The Minister may hold or appoint any person to hold an inquiry into the operation of this Act or into any charge or complaint that any purchaser has evaded payment of the tax or any vendor has neglected to collect the tax or to require the making of a deposit pursuant to section 3, or having collected any tax or received any deposit has not forwarded the same to the Minister, or has made a false return or statement, and also into any other matter arising in the administration of this Act, and for the purpose the Minister or persons so appointed shall have all the powers which may be conferred upon a commissioner appointed pursuant to *The Public Inquiries Act*.

Inquiries

9.—(1) Every person who,—

Offences

- (a) contravenes any of the provisions of this Act or the regulations thereunder; or
- (b) fails to make any return which he is required to make by this Act or the regulations; or
- (c) knowingly makes any incorrect return; or
- (d) refuses to answer any questions put to him by any person authorized to interrogate him by sections 6, 7 and 8; or
- (e) impedes or obstructs any person appointed by the Minister pursuant to sections 6, 7 and 8 in the making of any investigation or inquiry which he is authorized to make,—

shall in each case be guilty of an offence.

(2) A court or magistrate finding any person guilty of an offence may, instead of fining such person in the first instance, order such person to remedy his default and pay costs, and if he fails to comply with such order he shall be guilty of an offence.

Order to remedy default



Failure to  
keep records,  
etc., an  
offence:

Penalty

General  
penalty

Onus of  
proof

Powers of  
Lieutenant  
Governor  
in Council

Publication  
of orders

Coming into  
force of Act

**10.** Any vendor who makes default in keeping any records or in making any returns which he is required to keep or make by this Act or by any regulations made pursuant hereto shall be guilty of an offence and shall be liable on summary conviction therefor to a penalty not exceeding twenty-five dollars a day for each day during which the default continues.

**11.** Any person guilty of an offence for which no penalty is otherwise specifically provided shall be liable on summary conviction therefor to a penalty of not more than five hundred dollars and costs and in default of payment to imprisonment for a term not exceeding three months.

**12.** In any prosecution for failure to pay the tax or make a deposit or to collect the tax or receive a deposit or to forward the tax or any deposit, the onus of proving that the tax was paid or deposit received or that the same was collected or forwarded to the Minister, as the case may be, shall be upon the accused.

**13.—(1)** The Lieutenant Governor in Council may from time to time,—

- (a) declare that this Act shall not apply to retail sales in any specified area or areas of the Province which are adjacent to any boundary of the Province;
- (b) exempt from the liability to taxation under this Act any commodities;
- (c) exempt from the liability to taxation under this Act sales by or to any city, town, village, hospital, school, charitable institution, or any other public board or body designated by order in council;
- (d) prescribe as to the records to be kept and the returns to be made by any vendor or any person authorized to receive or collect the taxes from a vendor;
- (e) require all persons who make sales by retail to be registered and prescribe as to the manner of registration;
- (f) prescribe the remuneration which may be allowed or paid to any person who collects any tax imposed pursuant to this Act; and
- (g) make such regulations as may be deemed necessary and expedient for the purpose of carrying out the purposes of this Act.

(2) Every order made pursuant to this section shall be published in *The Alberta Gazette* and shall take effect on publication or on such later date as may be fixed for that purpose and shall thereupon have the same force and effect as if the same had been enacted by and as a part of this Act.

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

STATUTES  
OF THE  
PROVINCE OF ALBERTA  
PASSED IN THE SECOND SESSION  
OF THE  
EIGHTH LEGISLATIVE ASSEMBLY

Begun and Holden at Edmonton, on Tuesday, the Twenty-fifth  
day of August, 1936, and closed on Tuesday,  
the First day of September

1936  
(SECOND SESSION)



His Honour  
WILLIAM LEGH WALSH  
Lieutenant Governor

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EDMONTON:  
A. Shnitka, King's Printer  
1936

- 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, 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 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 payable under *The Ultimate Purchasers Tax Act*      **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 same force and effect as if the same had been issued pursuant to the provisions of this Act.
- Certificates previously issued      **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.
- Authority of City to enter into agreement

**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 of *The Unemployment Relief Act, 1933*, or otherwise.

Agree-  
ments with  
Province

**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—

Use of  
certificates  
by muni-  
cipalities

- (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.

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

Coming into  
force of Act

## 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 (herein-  
after 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,

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 in 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 \$55,000.00 and in consideration therefor the Province agrees to give and provide the City with additional prosperity certificates of the face value of \$30,000.00.

2. The City further agrees that prosperity certificates of the face value of \$30,000.00 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.

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 \$30,000.00 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 \$30,000.00 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 \$30,000.00 shall be kept in circulation by the City as aforesaid.

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 \$30,000.00 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 \$30,000.00 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 \$30,000.00 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 \$30,000.00 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 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.*

# 1936

(SECOND SESSION)

## CHAPTER 4.

### An Act respecting Prosperity Certificates.

(Assented to September 1, 1936.)

**H**IS 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 Prosperity Certificates Act*." Short title Act."
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— Authority to issue and reissue credit certificates
  - (a) for goods supplied and services rendered in respect of any public work undertaken by the Government in relation to unemployment relief;
  - (b) for any existing Government services;
  - (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 *The Unemployment Relief Act, 1933*, or otherwise; and
  - (d) for such other public expenditures as may be from time to time specified by Order of the Lieutenant Governor in Council.
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. Form of Alberta Prosperity Certificates
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. Aggregate amount to be issued
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. Redemption

STATUTES  
OF THE  
PROVINCE OF ALBERTA  
PASSED IN THE THIRD SESSION  
OF THE  
EIGHTH LEGISLATIVE ASSEMBLY

Begun and Holden at Edmonton, on Thursday, the Twenty-  
fifth day of February, 1937, and closed on Thursday,  
the Seventeenth day of June,

1937



His Honour  
JOHN CAMPBELL BOWEN  
Lieutenant Governor



# 1937

## CHAPTER 83.

### An Act to amend The Prosperity Certificates Act.

(Assented to June 17, 1937.)

**H**IS 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 Prosperity Certificates Act Amendment Act, 1937.*" Short title

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:

"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."

New section  
10a  
Redemption  
of Prosperity  
Certificates

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.

Coming into  
force of Act  
and retro-  
activity  
thereof

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NO. 4

### LEADING ARTICLES:

	Page
<i>The Crisis in Silver—H. Michell, Hamilton, Ont. . . . .</i>	393
<i>Lending Money—S. C. Norsworthy, Montreal, Que. . . . .</i>	404
<i>Some Current International Exchange Problems—Wilfred Womersley, Winnipeg, Man. . . . .</i>	409
<i>The Unanswered Question—G. L. Earle, Montreal, Que. . . . .</i>	424
<i>Douglas Credit Theory—Robert McQueen, Winnipeg, Man. . . . .</i>	430
<i>Banking Reforms in Continental Europe, C. M. Short, Toronto, Ont.</i>	440
<i>Municipal Credit—Horace L. Brittain, Toronto, Ont. . . . .</i>	446
<i>The Use of Leisure—Allan McKenzie, Prince Albert, Sask. . . . .</i>	449
<i>The American Banking Holiday—J. H. Simpson, Seattle, Wash. . .</i>	458
<i>Be Sure to Insure—From The Royal Bank Magazine . . . . .</i>	466
<i>More About Ledger Posting—C. B. Houston, Smith's Falls, Ont. . .</i>	469
<i>Some Observations on Company Law—M. L. Rapoport, Toronto, Ont.</i>	472
<i>London Addresses of World-Wide Fame—F. J. Lewcock, London, Eng. . . . .</i>	477

### DEPARTMENTS:

<i>Legal Decisions . . . . .</i>	480
<i>Notes on Examinations in the Fellows' Course . . . . .</i>	486
<i>Notes on Examinations in the Associates' Course . . . . .</i>	488
<i>Questions and Answers . . . . .</i>	491
<i>Index to Volume XLIII . . . . .</i>	493

### EDITORIAL COMMENT:

<i>The March of Events . . . . .</i>	369
<i>Stamped "Money" . . . . .</i>	381
<i>The JOURNAL Questionnaire . . . . .</i>	383

## Stamped "Money"

IN ITS search for some monetary device by which it can increase consumers' income and still keep within its constitutional provincial limits, the Province of Alberta has resurrected the project of stamped money made popular on this continent a few years ago by Professor Irving Fisher. The proposal is not originally that of Professor Fisher but was devised by an ingenious German, Silvio Gesell. The essential idea of the device was to place a penalty on hoarding of currency and to speed up the velocity of circulation. It is generally agreed that during the depression a decline in the velocity of circulation rather than a decline in the amount of money or credit available accounts for such scarcity of purchasing power as exists. The device of stamped money is, therefore, directed at a real and not an illusory problem.

The cardinal defect of the idea is that in practice it is applied only to one form of means of payment, whereas in the modern community there are many forms. If stamped money is issued there is no doubt that the penalty of affixing stamps at periodic intervals will cause it to circulate more rapidly than in the case of ordinary currency. The Alberta proposal is apparently to issue credits of the province (not money in any legal sense) in standard amounts, stamps to be affixed at the rate of one per cent. a week, so that the scrip would be rather more than retired at the end of two years, but there is nothing in the proposal which will speed up the circulation of Bank of Canada notes or of bank deposits. If the experiment is carried out and the "prosperity certificates" prove generally acceptable what will happen will be that the stamped scrip will tend to circulate at a relatively high velocity while the velocity of circulation of the other means of payment will tend to decline. It is quite unlikely, therefore, that the device of stamped scrip will raise the average velocity of circulation for all means of payment and, in consequence, its only effect upon the purchasing power of the people of the province will come from the initial government expenditure.

The whole scheme becomes, therefore, in essence simply a project for financing public works by the issue of public credit. There is no reason to expect that the average velocity of circulation will be significantly changed. The government continues to try to combine budget-balancing finance with increases in the provincial credit, and the rate of tax on the proposed scrip is forecasted as being extremely heavy. The originator of the device, Gesell, proposed a tax of only one mill per month, or

slightly over five per cent. a year. Gesell's idea was to provide only such tax as would offset any propensity in the community to hoard; he was less concerned with providing a retirement fund for the issue. The proposed Alberta tax of one per cent. per week, or fifty-two per cent. per year, is apparently designed wholly for retirement. To build roads and other permanent improvements by government credit, amortized over two years, would seem the very acme of conservative finance.

It becomes an important, indeed a crucial question, as to who pays the tax. Obviously it will rest chiefly on those individuals in whose expenditures small bills bulk largest. Those who make most of their expenditures or hold most of their funds in other means of payment will to that degree escape. There is also some importance to the fact that the tax stamp will have to be affixed periodically. The tax will fall on those who are unable to get rid of the scrip before the end of the tax period. No doubt this will promote rapid expenditure of the scrip just before the end of the tax period. Various attempts will be made to see that the scrip is in other hands when the tax is to be affixed. It seems probable, however, that the greater part of the tax will fall on the merchants, on the small consumers and on merchants' employees, none of whom is in a class which it is desirable to single out for heavily increased taxation.

Since the tax must be paid by someone and since the position of certain groups in the flow of money against goods will bring greater burdens to them than to others, there will develop strong resistance to the acceptance of the scrip. To overcome this resistance those in possession of the scrip will offer it at reduced rates, that is, scrip prices for goods will be higher than prices in money of general acceptability. There may, of course, be such complete resistance to the acceptance of the scrip that it will not circulate at all.

The originator of the device of stamped money envisaged a real problem, although the device itself was too limited to meet it fully. The Alberta project, however, in so far as it follows the lines which have been forecast in the daily press, turns out to be a scheme for building permanent public works out of public credit amortized over a period of two years by means of an extremely heavy tax falling most heavily on sections of the community which cannot equitably be called upon to bear it.



TRADE AND INDUSTRY DEPARTMENT

## ALBERTA CITIZENS' REGISTRATION COVENANT

1415

I, Eva A. Reid, hereby covenant, promise and agree as follows:—

- (1) To co-operate most heartily with the Alberta Government, and with my fellow citizens of the Province of Alberta in providing food, clothing and shelter for every one of us.
- (2) To work whenever possible, and to accept my remuneration in Alberta Credit as far as I can reasonably do so. In the event of receiving the whole or the greater part of my income in Canadian Currency, I shall exchange as much of it as is convenient for Alberta Credit.
- (3) To make no claim nor demand, at any time, for payment in Canadian Currency, of Alberta Credit held by me.
- (4) To tender no Alberta Credit in payment of Provincial taxes, licenses, royalties, fines, etc., until such time as the Alberta Government shall be able to accept all or part on the taxes, etc.

In return for my agreement, I understand that the Alberta Government covenants and agrees as follows:—

- (1) To establish, as early as possible, and maintain a just rate of wages with reasonable hours of labour.
- (2) To grant interest-free loans in Alberta Credit on such terms and security as shall be mutually agreed upon, not exceeding 2% for administration charges, for the building of a home or the establishment of the Registered Citizen in his own enterprise if conducive to the economic requirements of the Province.
- (3) To give monthly dividends to all registered Alberta Citizens, and to increase the same as the total production of the Province will allow.
- (4) To redeem when possible, Alberta Credit with Canadian Currency for the purpose of allowing the member to take up residence outside the Province or for other essential requirements.

With full understanding of these several declarations, I gladly enter into covenant with the Alberta Government and with my fellow citizens.

In witness whereof I affix my signature in the presence of

Witness:

O. J. Holdcroft

Signed:

Eva A. Reid

**Supreme Court of Canada**

**REFERENCE RE ALBERTA STATUTES — THE BANK TAXATION ACT ; THE CREDIT OF ALBERTA REGULATION ACT ; AND THE ACCURANTE NEWS AND INFORMATION ACT, [1938] S.C.R. 100**

**Date: 1938-03-04**

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 Regulations 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.

1938, Jan. 11, 12, 13, 14, 17, Mar. 4

PRESENT:—Duff C.J. and Cannon, Crocket, Davis, Kerwin and Hudson JJ.

*Constitutional law—Alberta statutes—The Bank Taxation Act—The Credit of Alberta Regulation Act, 1937—The Accurate News and Information Act—The Alberta Social Credit Act—Constitutional validity—B.N.A. Act, 1867, ss. 91, 92*

The Bank Taxation Act, The Credit of Alberta Regulations Act, 1937 and The Accurate News and Information Act are ultra vires of the provincial legislature of Alberta.

The Alberta Social Credit Act is ultra vires of the provincial legislature. Cannon J. expressing no opinion..

Per Duff C.J. and Davis and Hudson JJ.—Such legislation does not come within section 92 (13 or 16) of the B.N.A. Act; it is not within the power of that province to establish such statutory machinery with the functions for which this machinery is designed and to regulate the operation of it: such machinery, in part at least, as subject matter of legislation, comes within the field designated by "Currency," (s. 91 (14) B.N.A. Act).

Per Duff C.J. and Crocket, Davis, Kerwin and Hudson. JJ.—Such machinery, as established by The Alberta Social Credit Act, in its essential components and features, comes under head no. 15, "Banks and Banking."

Per Duff C.J. and Davis and Hudson JJ.—Even if such legislation is not strictly within the ambit of no. 14 ,or no, 15, or partly in one or partly in the other, then this legislation is ultra vires as its subject-matter is embraced within category no. 2 of s. 91, "Regulation of Trade and Commerce."

Held, by the Court, that the Bank Taxation Act is not an enactment in exercise of the provincial power to raise a revenue for provincial purposes by direct taxation, but is legislation which, in its true character and by ascertaining its effect in the known circumstances to which it is to be applied, relates to "Incorporation of Banks and Banking" (s. 91 (15) B.N.A. Act).

Per Duff C.J. and Cannon, Davis and Hudson JJ.—The rate of taxation provided by that Act must be prohibitive in fact and must be known

[Page 101]

to the Alberta legislature to be prohibitive. 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.

*Per* Crocket and Kerwin JJ.—The *Bank Taxation Act*, instead of being a taxing enactment, 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.

*Held*, by the Court, that *The Credit of Alberta Regulation Act, 1937*, is legislation in relation to "Banking" (s. 91 (15) B.N.A. Act); and, *per* Duff C.J. and Davis and Hudson. JJ., it is also legislation in relation to "The regulation of trade and commerce " within the meaning of section 91 (2).

*Per* Duff C.J. and Davis and Hudson JJ.—This Act is a part of a general scheme of legislation of which *The Social Credit Act* is really the basis; and, that latter Act being *ultra vires*, ancillary and dependent legislation falls with it.

*Held*, by the Court (except Cannon J.) that *The Alberta Accurate News and Information Act* forms part of the general scheme of social credit legislation, the basis of which is *The Alberta Social Credit Act*; and since that Act is *ultra vires*, ancillary and dependent legislation must fall with it.

*Per* Duff C.J. and Davis J.—Under the constitution established by the B.N.A. Act, legislative power for Canada is vested in *one* Parliament *and* that statute contemplates a parliament working under the influence of public opinion and public discussion. The Parliament of Canada possesses authority to legislate for the protection of that right; and any attempt to abrogate that right of public debate or to suppress the traditional forms of the exercise of such right (in public meeting or through the press) would be incompetent to the legislatures of the provinces. Moreover, 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 the legislature of Alberta has not the capacity under section 129 of that Act to alter that law by legislation obnoxious to the principle stated.

*Per* Cannon J.—The mandatory and prohibitory provisions of the *Alberta Accurate News and Information Act* 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 and of the citizens outside the province, 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, the freedom of the press in discussing public affairs 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

[Page 102]

Parliament as criminal matters and have been expressly dealt with by the criminal code. Such an Act is an attempt by the legislature to amend the Criminal Code in this respect and to deny the advantage of section 133 (a) of that Code to the newspaper publishers,

REFERENCE by His Excellency the Governor General in Council to the Supreme Court of Canada in the exercise of the powers conferred by section 55 of the *Supreme Court Act* (R.S.C., 1927, c. 35) of the following questions as contained in the Order in Council referring these questions to the Court :

Whereas there has been laid before His Excellency the Governor General in '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 afore-mentioned 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:

#### 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 (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.

[Page 103]

Chapter 3 entitled " An Act to Amend and Consolidate the Debt Adjustment Act, 1933," assented to September 1, 1936.

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.

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.

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.

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.

Chapter 83 entitled "An Act to Amend the Prosperity Certificates Act," assented to June 17, 1937.

[Page 104]

1937 (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.

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

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:-

" 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.

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

[Page 105]

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,"

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;

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."

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:

[Page 106]

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?

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

*Aimé Geoffrion K.C., J. Boyd McBride K.C. and C. P. Plaxton K.C. for the Attorney-General of Canada.*

*O. M. Biggar K.C., W. S. Gray K.C. and J. J. Frawley K.C. for the Attorney-General for Alberta.*

*W. N. Tilley K.C., R. C. McMichael K.C., W. F. Chipman K.C. and A. W. Rogers K.C. for the Chartered Banks.*

*W. N. Tilley K.C. and H. P. Duchemin K.C. for the Canadian Press.*

*J. L. Ralston K.C., S. W. Field K.C. and R. de W. MacKay K.C. for the Alberta newspapers.*

The judgment of Duff C.J. and Davis J. was delivered by

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.

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

[Page 107]

*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.

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."

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.

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 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

[Page 109]

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 :

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.

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 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.

Section 36 (b) should also be noticed:

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

(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.

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.

[Page 110]

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 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.

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.

[Page 111]

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.

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.

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 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

[Page 112]

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

[Page 113]

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.

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.

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. 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

[Page 114]

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. 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?

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) ; 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

[Page 115]

within any of the classes " so enumerated " is not within the legislative competence of the provincial legislatures under section 92" (The *Fisheries* case)<sup>1</sup>.

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 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*<sup>2</sup> (as interpreted in the *Great West Saddlery Co. v. The King*<sup>3</sup>) 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 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 to the introduction, maintenance and regulation of this novel apparatus for all commercial, industrial and trading operations.

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<sup>1</sup> [1898] A.C. 700, at 715.

<sup>2</sup> [1896] A.C. 348, art 359.

<sup>3</sup> [1921] 2 A.C. 91, at 99.

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

[Page 116]

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.

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.

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.

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, further-more,

that the Lieutenant-Governor in Council, by section 42, is authorized, for the purpose of giving effect to

[Page 117]

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.

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 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.

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 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.

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 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*<sup>4</sup>).

It will not be necessary to review these decisions at length. The concrete questions there brought into controversy can be briefly stated. They 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*)<sup>5</sup> ; in relation to the regulation of a particular business (*Insurance Reference*)<sup>6</sup>; 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

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<sup>4</sup> (1887) 12 App. Cas, 575, at 587,

<sup>5</sup> [1912] A.C. 333.

<sup>6</sup> [1916] 1 A.C. 588.



town (In *re Board of Commerce Act*)<sup>7</sup>; in relation to the public investigation of disputes between individual employers and their workers and the prohibition of strikes and lockouts pending such investigation (*Toronto Electric Commissioners v. Snider*)<sup>8</sup>.

These comprise the principal relevant decisions prior to the judgment of the Privy Council in 1937 in *re Natural Products Marketing Act*<sup>9</sup> 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*<sup>10</sup> 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.

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<sup>11</sup> and in the *Reference re the Natural Products Marketing Act*<sup>5</sup>. 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.

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*<sup>12</sup>, to

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<sup>7</sup> [1922] 1 A.C. 191.

<sup>8</sup> [1925] A.C. 396.

<sup>9</sup> [1937] A.C. 327.

<sup>10</sup> [1937] A.C. 377, at 387.

<sup>11</sup> [1937] A.C. 327.

<sup>12</sup> (1887) 12 App. Cas. 575.

afford scope for powers which are given exclusively to the provincial legislatures?

[Page 120]

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<sup>13</sup>, the *Board of Commerce* case<sup>14</sup> and *Toronto Electric Commissioners v. Snider*<sup>15</sup>. 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*<sup>16</sup>. 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

[Page 121]

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<sup>13</sup> [1912] A.C. 333.

<sup>14</sup> [1922] 1 A.C. 191,

<sup>15</sup> [1925] A.C. 396.

<sup>16</sup> [1925] A.C. 396, at 410.

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*<sup>17</sup> 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*<sup>18</sup> and by similar — pronouncements in the *Board of Commerce case*<sup>19</sup>, as expressing the *ratio decidendi* of those decisions. It is clear now, however, from the reasons for judgment in *A.-G. for Ontario v. A.-G. for Canada*<sup>20</sup> 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 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 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;

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<sup>17</sup> [1927] A.C. 327.

<sup>18</sup> [1925] A.C. 396.

<sup>19</sup> [1922] 1 A.C. 191.

<sup>20</sup> [1896] A.C. 348, at 359.

in relation to which it would be extravagant to suggest that 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.

Speaking of similar provisions in *Rex v. Nat Bell Liquors, Ltd.*<sup>21</sup>, 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 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 License-holders Ass'n*<sup>22</sup>.

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

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<sup>21</sup> [1922] 2 A.C. 128, at 136.

<sup>22</sup> [1902] A.C. 73.

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

[Page 123]

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 of Alberta 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 of Alberta Regulation Act*, but also from its enacting provisions, that it is a part of the general scheme of legislation of which *The Alberta 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 [sic] 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.

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.

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.

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. \* \* \*

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.

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.

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 :

but does not include transactions which are banking within the meaning of the word "bank" 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*<sup>23</sup> ; *Clelland v. Ker*<sup>24</sup>, and *Drury 227*).

[Page 127]

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

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<sup>23</sup> (1600) 1 Co. Rep. 40b, at 47b.



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 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*.<sup>25</sup> 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

[Page 128]

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<sup>24</sup> (1843) 6 Ir. Eq. 35.

<sup>25</sup> [1899] A.C. 580.

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

[Page 129]

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. 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*<sup>26</sup>, 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.

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*<sup>27</sup>.

This is the language of the Judicial Committee in *Great West Saddlery Co. v. The King*<sup>28</sup>.

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

[Page 130]

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

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<sup>26</sup> [1915] A.C. 343.

<sup>27</sup> [1896] A.C. 348.

<sup>28</sup> [1921] 2 A.C. 99.

preventing banks carrying on their business or controlling them in the exercise of their powers must be invalid (*G. W. Saddlery v. The King*<sup>29</sup>).

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.

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*.

The next point concerns the decision of the Judicial Committee in the *Bank of Toronto v. Lambe*<sup>30</sup>. 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*<sup>31</sup> ; *Osborn v. United States Bank*<sup>32</sup> ; *Railroad Co. v. Peniston*<sup>33</sup>) 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.

[Page 131]

Their Lordships declined 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

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<sup>29</sup> [1921] 2 A.C. 99, et 100.

<sup>30</sup> (1887) 12 A.C. 575.

<sup>31</sup> (1819) 4 Wheaton 436.

<sup>32</sup> (1824) 9 Wheaton 738.

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*<sup>34</sup>, 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*<sup>35</sup> 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 undiscriminatory 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.

The judgment proceeds:

In *Great West Saddlery Co. v. The King*<sup>36</sup> 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.

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

[Page 132]

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

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<sup>33</sup> (1873) 18 Wallace 5,

<sup>34</sup> [1924] A.C. 999, at 1005-6.

<sup>35</sup> [1908] 40 Can. S.C.R. 597, at. 6066-7.

system of banking established by the Bank Act, and to the controlling of banks in the conduct of their business.

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*."

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.

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

[Page 133]

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*<sup>37</sup>, "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

[Page 134]

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.*<sup>38</sup>) ; 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.

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<sup>37</sup> [1936] A.C. 578, at 627.

<sup>38</sup> [1923] A.C. 695.

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 *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*<sup>39</sup>, "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*<sup>40</sup>.

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 institutions of Canada as contemplated by the provisions of *The British North America Act* and the statutes of the

[Page 135]

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*<sup>41</sup> "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*<sup>42</sup>).

Section 129 of *The British North America Act* is in these words:

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<sup>39</sup> [1921] 2 A.C. 91, at 122.

<sup>40</sup> [1924] A.C. 999, at 1005-6.

<sup>41</sup> (1887) 12 A.C. 575.

<sup>42</sup> [1921] 2 A.C. 91, at 100.



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.

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*.

[Page 136]

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*<sup>43</sup>, notably in *Abbott v. City of Saint John*<sup>44</sup> ; *Caron v. The King*<sup>45</sup> ; *Forbes v. Attorney-General of Manitoba*, confirmed by Privy Council<sup>46</sup> ; and also in *Judges v. Attorney-General of Saskatchewan*<sup>47</sup> must be reviewed in order to decide the question.

In *Bank of Toronto v. Lambe*<sup>43</sup>, the Privy Council said at 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

[Page 137]

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

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<sup>43</sup> (1887) 12 AC. 575.

<sup>44</sup> (1908) 40 Can. S.C.R. 597.

<sup>45</sup> [1924] AC. 999.

<sup>46</sup> [1936] S.C.R. 40; [1937] A.C. 860.

<sup>47</sup> [1936] 4 DIR. 134; [1937] 2 D.L.R. 209.

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."

In the *Forbes* case<sup>48</sup>, 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 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

[Page 138]

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 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

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<sup>48</sup> [1936] S.C.R. 40, at 64 & seq

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 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 Saint John*<sup>49</sup> and *Caron v. The King*<sup>50</sup>. I quote the following from the judgment of My Lord the present Chief Justice<sup>51</sup> :

In. *Abbott v. City of Saint John*<sup>49</sup>, this Court had to consider the judgment of the very able judges who decided *Leprohon v. City of Ottawa*<sup>52</sup>, and it may be worth while to devote a sentence or two to *Leprohon's case*<sup>52</sup>

The trial judge was Mr. Justice Moss<sup>52</sup> (afterwards Chief Justice of Ontario). He proceeded upon principles which had been laid down in judgments of the Supreme Court of the United States, notably in the judgment of Marshall C.J. in *McCulloch v. Maryland*<sup>53</sup>, the effect of which may be summed up in these words, quoted by Moss J. (4) from the judgment of Nelson J. in *Buffington v. Day*, 'reported sub *nom. The Collector v. Day*<sup>54</sup>.

\* \* \* 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.'

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

[Page 139]

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.

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<sup>49</sup> (1908) 40 Can. S.C.R. 597.

<sup>50</sup> [1924] A.C. 999.

<sup>51</sup> [1936] S.C.R. 40, at 44.

<sup>52</sup> (1878) 2 Ont. App. R. 522;

<sup>53</sup> (1819) 4 Wheat. 316.

<sup>54</sup> (1870) 11 Wallace 113, at 123-4.

The learned judges in the Court of Appeal for Ontario base their conclusions upon the same grounds.

In *Abbott v. City of Saint John*<sup>55</sup>, 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) :—

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*<sup>56</sup> \* \* \* 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*<sup>56</sup> proceeded with the views expressed by the Judicial Committee in the later case of *The Bank of Toronto v. Lambe*<sup>57</sup>. Indeed, although *Leprohon v. The City of Ottawa*<sup>56</sup> 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*.

*Abbott v. City of Saint John*<sup>55</sup> was approved in *Caron v. The King*<sup>58</sup> and both decisions are, of course, binding upon this Court.

In the same case of *Forbes v. Attorney-General of Manitoba*<sup>59</sup> Lord Macmillan, speaking for the Privy Council, 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*<sup>60</sup> 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 be trusted to levy taxes.

[Page 140]

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<sup>55</sup> (1908) 40 Can. S.C.R. 597.

<sup>56</sup> (1878) 2 Ont. App. R. 522.

<sup>57</sup> (1887) 12 App. Cas. 575.

<sup>58</sup> [1924] A.C. 999.

<sup>59</sup> [1937] A.C. 260, at 270.

<sup>60</sup> (1887) 12 App. Cas. 575.

I would also refer to the case of the *Saskatchewan Judges v. Attorney-General of Saskatchewan*<sup>61</sup>, where the Privy Council reaffirmed, as applying to judges' salaries, the view already expounded in *Attorney-General of Manitoba v. Forbes*<sup>62</sup>, 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, 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 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 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,

[Page 141]

*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

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<sup>61</sup> [1937] 2 D.L.R. 209.

to the decisions above quoted. They may even distinguish this reserved bill from the Quebec Act considered in *Bank of Toronto v. Lambe*<sup>63</sup>.

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*<sup>63</sup>, and also according to the same authority, " whether the method of assessing this tax is I 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 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 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?*

[Page 142]

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 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

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<sup>62</sup> [1937] A.C. 260.

<sup>63</sup> (1887) 12 App. Cas. 575.

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.

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?

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

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 province published by that newspaper within the next preceding thirty-one days.

[Page 143]

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

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.

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.

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 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

[Page 144]

to produce goods and services, which capacity remains unused on account of the lack or absence of purchasing power in the consumers 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 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.

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 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

[Page 145]

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 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 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 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 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

[Page 146]

through sources independent of the government concerning matters of public interest. 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 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, the freedom of the press in discussing public affairs 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 Alberta newspapers' news items and articles.

[Page 147]

I would, therefore, answer the question as to Bill No. 9 in the negative.

The judgment of Crocket and Kerwin JJ., *re* Bank taxation Act, was delivered by

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.

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 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 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

[Page 148]

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 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 Saint John*<sup>54</sup>, must be 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 before-hand such a suggested misuse of the power.

The decision in the *Abbott* case<sup>64</sup> was approved by the Judicial Committee in *Caron v. The King*<sup>65</sup> and in *Forbes v. Attorney-General for Manitoba*<sup>66</sup>. As pointed out at page 270 in the latter, an argument in terrorem similar to that raised in the *Abbott* case<sup>54</sup> had been advanced and rejected in *Bank of Toronto v. Lambe*<sup>67</sup>. While Davies J. left the question open, Lord Hobhouse, speaking for the Board in the *Lambe* case<sup>57</sup>, contented himself with stating that

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<sup>54</sup> 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.

[Page 149]

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 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 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

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<sup>64</sup> (1908) 40 Can. & C. 1 . 597.

<sup>65</sup> [1924] A.C. 999,

<sup>66</sup> [1937] A.C. 260.

<sup>67</sup> (1887) 12 A.C. 575.

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:

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.

Chapter 2, *An Act to provide for the Restriction of the Civil Rights of Certain Persons*, also passed in the Second 1937 Session, 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

[Page 150]

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:—

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.

On August 17, 1937, the Governor General in Council ordered that these two Acts together with one amending the *Judicature Act* be disallowed, and 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.

It would appear to be relevant at this stage to refer to *The Reciprocal Insurers* case<sup>68</sup> and *In Re The Insurance Act of Canada*<sup>69</sup>. 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*<sup>70</sup> was pronounced

[Page 151]

*ultra vires* of the Dominion Parliament." In the present reference it is not admitted, by counsel for the Attorney-General of Alberta that Bill I 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 I 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.

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<sup>68</sup> [1924] A.C. 328.

<sup>69</sup> [1932] A.C. 41.

<sup>70</sup> [1916] 1 A.C. 588.



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<sup>71</sup> nor by the decisions of the Judicial Committee in the three cases mentioned, but is governed by the *Reciprocal Insurers* case<sup>72</sup> and *In Re The Insurance Act of Canada*<sup>73</sup>.

For these reasons I would answer question 1 in the negative.

The judgment of Crocket and Kerwin JJ., *re* Credit Regulation, 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

[Page 152]

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 *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

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<sup>71</sup> [1908] 40 Can. S.C.R. 597.

<sup>72</sup> [1924] A.C. 328.

<sup>73</sup> [1932] A.C. 41.

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 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 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,

[Page 153]

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.

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 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 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,

[Page 154]

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 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.

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.

It will be observed that under clause A of the definition section the entire business of a "credit institution" need not

[Page 155]

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 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*<sup>74</sup>, 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

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<sup>74</sup> [1894] A.C. 31, at 46.

noticed by the Court," per Lord Campbell, during the course of the argument in *The Bank of Australasia v. Breillat*<sup>75</sup>, referring to *Brandao v. Barnett*<sup>76</sup>.

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 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

[Page 156]

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, 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 payments.

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 banks 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

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<sup>75</sup> (1847) 6 Moo. P.C. 152, at 173.

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

[Page 157]

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.

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."

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

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<sup>76</sup> (1846) 12 Cl. & F. 787.

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;

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.

[Page 158]

There remains for consideration the effect of the concluding phrase in clause (b) of section 2,—

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.

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.

In *The King v. Nat Bell Liquors Ltd.*<sup>77</sup>, 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.

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*

[Page 159]

*Holders' Association*<sup>78</sup>, where, in dealing with the question as to the constitutionality of the Manitoba *Liquor Act of 1900*, His Lordship observes:—

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 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,

The principle to which Lord Sumner referred was expressed somewhat differently by Viscount Haldane in *Attorney General for Manitoba v. Attorney General for Canada*<sup>79</sup>. 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

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<sup>77</sup> [1922] 2 A.C. 128.

<sup>78</sup> [1902] A.C. 73, at 79.



Haldane refers to the principle by which the courts determine whether a tax is direct or indirect, and explains:—

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*<sup>80</sup>, 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

[Page 160]

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 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

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<sup>79</sup> [1925] A.C. 561.

<sup>80</sup> [1937] A.C. 377.

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.

The judgment of Crocket and Kerwin JJ. *re* Press Act 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

[Page 161]

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.

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

[Page 162]

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, which I prefer to postpone until the need to do so arises.

For the above reasons I would answer question 3 in the negative.

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;

- (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.

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.

[Page 163]

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.

[ScanLII Collection]

# MONETARY PROPOSALS FOR SOCIAL REFORM

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*By MARGARET G. MYERS*

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1940

fund for the warrant. The plan seemed very plausible as an almost painless method of increasing the purchasing power of the older members of the community and thus helping to overcome the depression in business. But the California Taxpayers' Association pointed out that even if only three-quarters of the 1,340,000 eligible citizens took advantage of the plan, it would require \$1,622,000,000 to be raised through the sale of stamps. This sum was equivalent to one-third of the net income and earnings of all Californians in 1937; was three times as large as the total cost of local and state government in California; and would require \$80,000,000,000 in transactions in order to raise the necessary sum, whereas in 1937 the total of transactions had been only \$16,000,000,000. Although many of the members who paid dues to the organization were honest and sincere, the plan itself bore many of the earmarks of a racket, and it was voted down in 1938.<sup>6</sup>

Quite undismayed by this defeat, the promoters of the scheme succeeded in having it presented again to the voters in a special election a year later. Although a few changes were made in the plan, the essential features remained the same as before. Retail and wholesale merchants, instead of welcoming the plan as one which would increase their sales, united in opposition to it and announced that they would not accept the warrants. The plan was defeated for the second time. A similar plan, which was voted on in Ohio in the same election, was also defeated.

### *Canadian Experiments*

More extensive than any of the experiments in the United States was that made in Alberta, Canada, by the Aberhart government. Alberta is one of the prairie provinces of western Canada, dependent upon agriculture and especially upon wheat production. In many respects it is similar to the

<sup>6</sup> *New York Times*, Sept. 30, 1938.

prairie states of the United States. Its population in 1930 was approximately three-quarters of a million, one-third of whom had non-English speaking parents, mostly German and Ukrainian.

The United Farmers' party had been in power in Alberta since 1921, and within that party there was a strong movement in favor of Social Credit. Premier Reid, in an effort to attach that movement to himself, invited Major Douglas to Alberta in May, 1935, to advise him on the possibility of introducing Social Credit in the province.<sup>7</sup> Douglas accepted the invitation and made his report. He proposed that the government secure a monopoly of radio broadcasting, in order to present the plan to the public in a favorable light; that it form some kind of credit institution to handle the issue of Social Credit; and that it build up a war chest in preparation for the change.

By thus linking himself with Premier Reid, Douglas made the mistake of alienating Aberhart, who was elected premier in August, 1935, on a Social Credit platform. Premier Aberhart was a high-school principal of Calgary, better known for the fact that he was also head of the Prophetic Bible Institute. His party elected with him 56 of the 63 members of the Provincial Legislature, a majority which seemed to make possible any reform legislation they wanted. The election promises had included the payment of a "national dividend" of \$25 monthly to each adult, with smaller amounts to children, out of the "Social Credit." The campaign slogan had been, "Money has too much and men too little."

Aberhart cabled news of his election to Douglas on August 24, asking him when he could come to Canada, and Douglas replied that he could sail on September 14. On September 4, however, Aberhart cabled Douglas again, requesting him not to come, for the treasury was empty, there was no money

<sup>7</sup> Douglas had been invited to testify before the Canadian Parliament also in 1923.



for meeting the pay rolls of October 15, and certainly no funds with which to pay the fees and expenses of Douglas and his entourage. But Douglas was requested to submit an estimate for the cost of his services as "Chief Reconstruction Advisor to the Government" for six months.

In the meantime Premier Aberhart set about the reduction of excessive and wasteful expenditures by consolidating commissions and eliminating duplication of function. He tried also to borrow from the central government, but was unable to do so because he refused to permit a Federal Loan Council to control the expenditure of the funds. Douglas continued to give advice by cable and mail, and to criticize freely all the actions taken by Aberhart. When Aberhart asked for a concrete plan by which the Social Credit plan could be inaugurated, Douglas suggested quite seriously that one of the banks should be asked to make a loan of \$5,000,000 to the province, free of interest and uncallable. For the use of this sum the province would pay only a service charge of 1.5 percent. The bank would be protected against drains of cash by requiring the province to mark all checks drawn against this account, "For deposit only in the \_\_\_\_\_ bank." (It never seems to have occurred to Douglas that recipients of these checks, after depositing them, could draw them out again in the form of cash or checks, and thus drain away the bank's reserves.)

If no bank could be found which was willing to "coöperate" in this way, the province was to get all holders of stocks and bonds to exchange them for Alberta's own short-dated notes, bearing one percent. The original holders of the stocks and bonds would continue to receive the dividends paid on them, but the securities themselves would be used by the province as collateral for the loan of the \$5,000,000 which was needed to set up the Social Credit scheme. Aberhart replied, "I am sure this would alarm our citizens to a very grave degree, and would give the opponents a splendid op-

portunity to attack viciously the whole method of procedure.”


Douglas had no more practicable scheme to offer, and took refuge in criticism. Although he himself had stated, in the report of 1935, that an ample fund of real money (i. e., of funds acceptable outside the province) was needed to set up a Social Credit scheme, and although all of Aberhart's activity in the first months of his office were directed to this end, Douglas disapproved of most of the measures taken. He pointed out that balancing of the budget was absolutely incompatible with Social Credit, and accused Aberhart of abandoning Social Credit principles in favor of a combination of a “New Deal” with Gesell's stamped money. Douglas even accused the “banking authorities” of encouraging Aberhart to adopt the Gesell plan, in order to undermine the Social Credit scheme.

Because the payment of the monthly national dividend was not as simple as it had looked before the election, the Aberhart government adopted, as a first step in financial reform, Gesell's plan for stamped money. The first issue of these so-called Prosperity Certificates was made on August 7, 1936, in payments to the unemployed occupied on public works projects, and in part payment to other government employees for salaries. The notes were accepted by small retail stores, but were refused by the banks, wholesale dealers, and government liquor stores.

The total amount authorized had been set at \$2,000,000,000. Altogether the amount issued came to \$262,000 in one-dollar bills. Each bill bore on the back space for 104 one-cent stamps, one of which was to be attached each week. The note was redeemable at the office of the provincial treasurer after two years, when it was fully stamped. In order to keep the notes circulating at par, the treasurer's office felt obliged to redeem them whenever offered, whether the two years had expired or not. The result was that the notes, instead of circulating more rapidly because of the necessity of attaching the weekly stamp, were simply sent back for re-



Face of certificate

	AUG. 19 1936	AUG. 26 1936	SEPT. 2 1936	SEPT. 9 1936	SEPT. 16 1936	SEPT. 23 1936	SEPT. 30 1936	OCT. 7 1936	OCT. 14 1936	OCT. 21 1936	OCT. 28 1936	NOV. 4 1936	NOV. 12 1936	NOV. 18 1936	
	NOV. 25 1936	DEC. 2 1936	DEC. 9 1936	DEC. 16 1936	DEC. 23 1936	DEC. 30 1936	JAN. 6 1937	JAN. 13 1937	JAN. 20 1937	JAN. 27 1937	FEB. 3 1937	FEB. 10 1937	FEB. 17 1937	FEB. 24 1937	MAR. 3 1937
	MAR. 10 1937	MAR. 17 1937	MAR. 24 1937	MAR. 31 1937	APRIL 7 1937	APRIL 14 1937	APRIL 21 1937	APRIL 28 1937	MAY 5 1937	MAY 12 1937	MAY 19 1937	MAY 26 1937	JUNE 2 1937	JUNE 9 1937	JUNE 16 1937
	JUNE 23 1937	JUNE 30 1937	JULY 7 1937	JULY 14 1937	JULY 21 1937	JULY 28 1937	AUG. 4 1937	AUG. 11 1937	AUG. 18 1937	AUG. 25 1937	SEPT. 1 1937	SEPT. 8 1937	SEPT. 15 1937	SEPT. 22 1937	SEPT. 29 1937
	OCT. 6 1937	OCT. 13 1937	OCT. 20 1937	OCT. 27 1937	NOV. 3 1937	NOV. 10 1937	NOV. 17 1937	NOV. 24 1937	DEC. 1 1937	DEC. 8 1937	DEC. 15 1937	DEC. 22 1937	DEC. 29 1937	JAN. 5 1938	JAN. 12 1938
	JAN. 19 1938	JAN. 26 1938	FEB. 2 1938	FEB. 9 1938	FEB. 16 1938	FEB. 23 1938	MAR. 2 1938	MAR. 9 1938	MAR. 16 1938	MAR. 23 1938	MAR. 30 1938	APRIL 6 1938	APRIL 13 1938	APRIL 20 1938	APRIL 27 1938
	MAY 4 1938	MAY 11 1938	MAY 18 1938	MAY 25 1938	JUNE 1 1938	JUNE 8 1938	JUNE 15 1938	JUNE 22 1938	JUNE 29 1938	JULY 6 1938	JULY 13 1938	JULY 20 1938	JULY 27 1938	AUG. 3 1938	

Reverse of certificate

### PROSPERITY CERTIFICATE

Such certificates were issued by Alberta Province, Canada, under the Aberhart government.

demption. By September 30, about seven weeks after the first issue, nearly half of the total issue had already been redeemed; and by November 14 only \$36,000 of the original \$262,000 still remained in circulation. In April of the next year, when all but \$12,000 had been redeemed, the plan was officially abandoned.

In the meantime, the government was still attempting to find a way to put into operation the plan for Social Credit. After considerable stalling, Major Douglas finally canceled his contract with the Aberhart government. Left thus to its own inexperience, the government called a special session of the legislature in August, 1936. The first measure was a registration act, under which individuals who wished to qualify for Social Credit payments were asked to enroll by signing a page-long pledge to support the plan, to use the new money when issued, to regulate their farm production according to the plan, and to give up individual buying and selling when required.

This measure was very soon repealed by a new Social Credit bill, which, in order "to provide the people of Alberta with additional credit," established a state Credit House under a board appointed by the Lieutenant Governor. The Credit House was empowered to take currency and all kinds of negotiable instruments. Against this collateral, loans of "Alberta credit" were to be issued to any person engaged in agriculture or manufacturing or industry, or building a home, or establishing himself in any business, vocation, or calling. No interest was to be collected against such loans, but a charge of 2 percent per annum was to be made to cover the costs of the office.

As another method of easing the position of the debtors at the expense of the creditors, the rate of interest on provincial bonds issued by Alberta was cut from 5 to 2.5 percent, and municipalities were given the right to reduce the interest on their bonds outstanding to 3 percent if they

wished to do so. Moreover, the legal rate of interest on private debts was cut to 3 percent, and all interest payments made between 1932 and the passage of the new law in 1936 were to be subtracted from the principal of the debt. Many persons in Alberta itself were very much opposed to the Social Credit legislation; business men, holders of provincial bonds, and indeed most creditors whose income was threatened by the reduction in interest rates were in open opposition to Aberhart.

Unfortunately for Aberhart and his plans, the federal government of Canada also was unsympathetic, and was able to back up its lack of sympathy by appeal to the courts. On February 23, 1937, the Alberta supreme court declared unconstitutional the interest-reducing legislation, and this decision was upheld by the federal courts. In view of this decision, Aberhart offered to resign, if the Social Credit Associations throughout the province wished it. The offer was not accepted, and Aberhart proceeded to attack the problem of monetary reform from another angle, which he hoped might pass the scrutiny of the courts.

The new plan retained the Social Credit Board and gave it power to require all banks to operate under licenses granted by it (a measure which had once been proposed by Major Douglas); increased the taxation of banks in Alberta by about \$2,000,000 annually; and forbade any person to test the constitutionality of Alberta statutes in the courts of the province. Moreover, the Alberta government was specifically empowered to deposit its funds in a non-banking institution, thus making possible the establishment of a state Credit House.

Again the federal courts interrupted the operation of the plan. In a case brought by the Dominion government itself, the court ruled unanimously that the whole group of legislative acts was unconstitutional because their subject matter—currency, banking, and trade and commerce—were all re-

served for the Dominion government, and that the latter enjoyed the power to disallow any provincial legislation without limitation. Since it would be impossible to draw up a Social Credit Act which did not deal with the proscribed subject matter, this decision put an end to the movement for Social Credit in Canada.

Throughout this period Alberta defaulted on her bonds as different issues came to maturity. Between April, 1936, and the end of 1938, five different issues, totaling more than \$9,000,000 failed of redemption. In view of its action in reducing interest rates on outstanding debt, the province was unable to obtain a loan from the Bank of Canada. It was also unable to obtain further loans from the central government because it would not agree that the spending of the funds should be supervised by a loan council to be set up by the central government.<sup>8</sup> The proposal for Social Credit, even though the plan was not adopted, was unfortunate for Alberta.

#### *Experiments Unsuccessful*

None of these experiments was carried out under what would have been considered by their advocates, ideal conditions. In no case did the new currency take the place of the old; it was merely used in addition to the old, and had to make its way in competition with established forms. Moreover, none of the experiments was continued for a period of sufficient length to provide really conclusive evidence as to their value. On the other hand there is no reason to suppose that under better conditions or in a longer period the results of the experiments would have been more favorable. The failure to produce any positively favorable results is in itself evidence against the proposed reforms.

<sup>8</sup> *New York Times*, passim.

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## CONTENTS

### ARTICLES

- THE BIRTH, MATURATION AND DEMISE OF  
THE BANK OF FREDERICTON (1836-1839)  
by Geoffrey Bell, Harry Eisenhauer, et al. .... 81  
*A challenge accepted (see page 81). Co-operation between  
several numismatists aided research into the history of  
The Bank of Fredericton.*
- MARITIME PAPER MONEY. By Alan S. Macnab ..... 84  
*The text of a talk by the author, given at the A.P.N.A.  
Spring Rally at Truro, N.S., May 10th, 1975*
- ALBERTA PROSPERITY CERTIFICATES ..... 93  
*From the Journal of the Canadian Banking Association,  
July, 1936.*
- A PROPOSED METHOD OF DETERMINING THE BANK NOTE  
COMPANY PRINTING EACH OF THE DENOMINATIONS AND  
PREFIXES OF THE MULTI-COLOUR NOTES  
By Don Olmstead ..... 95  
*An item of interest to Bank of Canada prefix collectors*
- THE BANK OF CLIFTON. By Paul A. Merrill ..... 96  
*Paul Merrill, a junior member of the Fredericton Numismatic  
Society and a new member of the C.P.M.S. collects Bank of Clifton  
notes. His interest in them led to a desire to know more about them.*

### FEATURES

- The President's Report. C.P.M.S. Nominations and Election ..... 79  
To Canadian Members of the I.B.N.S. Convention Notes ..... 80  
Review of Charlton Price Guide ..... 97  
In the Market Place. By Al Bliman ..... 99  
Information Please ..... 101  
Members' Advertising ..... 102  
Editorial ..... 103

**COVER:** Paddlewheelers docked at the foot of Regent Street, Fredericton, only a couple of blocks from The Bank of Fredericton's premises.

# ALBERTA PROSPERITY CERTIFICATES

*From Journal of the Canadian Bankers Association July 1936*

In its search for some monetary device by which it can increase consumers' income and still keep within its constitutional provincial limits, the Province of Alberta has resurrected the project of stamped money made popular on this continent a few years ago by Professor Irving Fisher. The proposal is not originally that of Professor Fisher but was devised by an ingenious German, Silvio Gesell. The essential idea of the device was to place a penalty on hoarding of currency and to speed up the velocity of circulation. It is generally agreed that during the depression a decline in the velocity of circulation rather than a decline in the amount of money or credit available accounts for such scarcity of purchasing power as exists. The device of stamped money is, therefore, directed at a real and not an illusory problem.



The cardinal defect of the idea is that in practice it is applied only to one form of means of payment, whereas in the modern community there are many forms. If stamped money is issued there is no doubt that the penalty of affixing stamps at periodic intervals will cause it to circulate more rapidly than in the case of ordinary currency. The Alberta proposal is apparently to issue credit of the province (not money in any legal sense) in standard amounts, stamps to be affixed at the rate of one per cent a week, so that the scrip would be rather more than retired at the end of two years, but there is nothing in the proposal which will speed up the circulation of Bank of Canada notes or of bank deposits. If the experiment is carried out and the "prosperity certificates" prove generally acceptable what will happen will be that the stamped scrip will tend to circulate at a relatively high velocity while the velocity of circulation of the other means of payment will tend to decline. It is quite unlikely, therefore, that the device of stamped scrip will raise the average velocity of circulation for all means of payment and, in consequence, its only effect upon the purchasing power of the people of the province will come from the initial government expenditure.

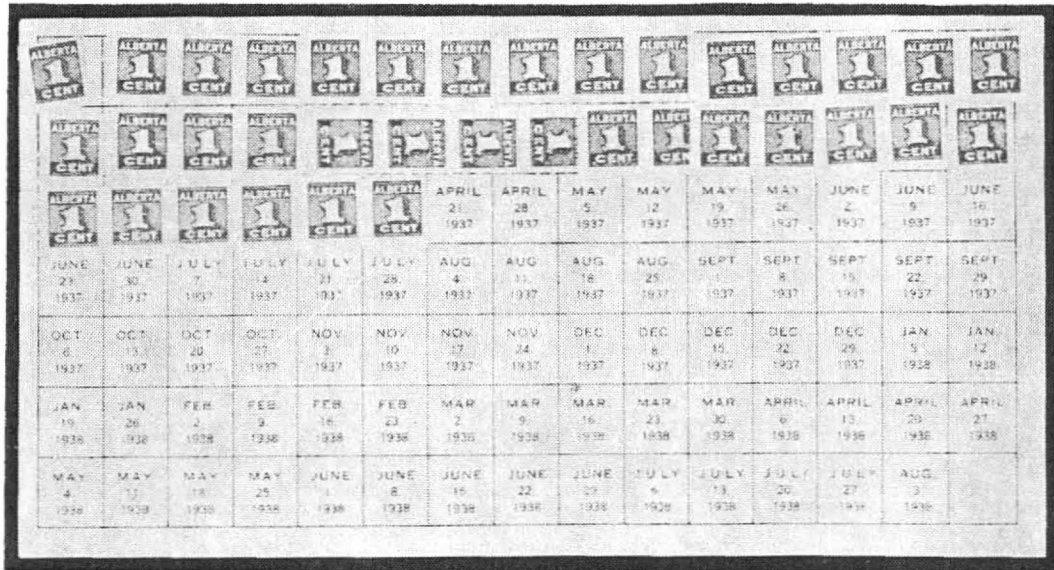
The whole scheme becomes, therefore, in essence simply a project for financing public works by the issue of public credit. There is no reason to expect that the average velocity of circulation will be significantly changed. The government con-



tinues to try to combine budget-balancing finance with increases in the provincial credit, and the rate of tax on the proposed scrip is forecasted as being extremely heavy. The originator of the device, Gesell, proposed a tax of only one mill per month or slightly over five per cent a year. Gesell's idea was to provide only such tax as would offset any propensity in the community to hoard; he was less concerned with providing a retirement fund for the issue. The proposed Alberta tax of one per cent per week, or fifty-two per cent per year, is apparently designed wholly for retirement. To build roads and other permanent improvements by government credit, amortized over two years, would seem the very acme of conservative finance.

It becomes an important, indeed a crucial question, as to who pays the tax. Obviously it will rest chiefly on those individuals in whose expenditures small bills bulk largest. Those who make most of their expenditures or hold most of their funds in other means of payment will to that degree escape. There is also some importance to the fact that the tax stamp will have to be affixed periodically. The tax will fall on those who are unable to get rid of the scrip before the end of the tax period. No doubt this will promote rapid expenditure of the scrip just before the end of the tax period. Various attempts will be made to see that the scrip is in other hands when the tax is to be affixed. It seems probable, however, that the greater part of the tax will fall on the merchants, on the small consumers and on merchants' employees, none of whom is in a class which is desirable to single out for heavily increased taxation.

Since the tax must be paid by someone and since the position of certain groups in the flow of money against goods will bring greater burdens to them than to others, there will develop strong resistance to the acceptance of the scrip. To overcome



this resistance those in possession of the scrip will offer it at reduced rates, that is, scrip prices for goods will be higher than prices in money of general acceptability. There may, of course, be such complete resistance to the acceptance of the scrip that it will not circulate at all.

The originator of the device of stamped money envisaged a real problem, although the device itself was too limited to meet it fully. The Alberta project, however, insofar as it follows the lines which have been forecast in the daily press, turns out to be a scheme for building permanent public works out of public credit amortized over a period of two years by means of an extremely heavy tax falling most heavily on sections of the community which cannot equitably be called upon to bear it.

# Alberta Fought Depression With Stamps, Certificates

By Lawrence B. Hall  
Calgary, Alberta

The year 1936 was a momentous year both for Alberta and for the world at large. The Civil War in Spain, the abdication of King Edward VIII and the Olympics in Germany held the world's attention, while in Alberta people complained about the drought, the lack of work and money, and argued out the merits of the new Prosperity Certificates.

The full story of Prosperity Certificates and the reasons for their issue can, perhaps, be better understood if we first take a few minutes to go back and review the economic conditions of the early '30s and the latter part of the previous decade.

The stock market crash of 1929 left the economic structure of the world in shambles. Alberta, with its economy based on agriculture, bore the brunt of the depression. Wheat sold for less than 20 cents a bushel and pigs were two cents per pound. In some instances freight charges on beef shipped to market equalled the final sale

price.

Even so, the farmer still fared better than people in the cities, where there were no jobs and no wages for many. The farmer at least had work to do, even if he received no pay for it. People in the city soon ran out of money to pay rent and grocery bills. There were many cases of malnutrition, especially in the Edmonton area. Young people tramped the streets and rode the rails looking for work.

Others applied for relief and were herded away to relief camps.

The existing economic wholesaler and retailer had ample supplies on hand. In fact there were many reported cases of food dumping because of lack of sales. The main problem was a lack of purchasing power. These were the "hungry thirties."

During the early years of the  
(Continued on page 70)



The government of Alberta's Prosperity Certificates represented a bold attempt to overcome the commercial stagnation which the great depression had cast on the province through the cooperation of all segments of society.

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
1932	1	1	1	1	1	1	1	1	1	1	1	1
1933	1	1	1	1	1	1	1	1	1	1	1	1
1934	1	1	1	1	1	1	1	1	1	1	1	1
1935	1	1	1	1	1	1	1	1	1	1	1	1
1936	1	1	1	1	1	1	1	1	1	1	1	1
1937	1	1	1	1	1	1	1	1	1	1	1	1
1938	1	1	1	1	1	1	1	1	1	1	1	1
1939	1	1	1	1	1	1	1	1	1	1	1	1
1940	1	1	1	1	1	1	1	1	1	1	1	1
1941	1	1	1	1	1	1	1	1	1	1	1	1
1942	1	1	1	1	1	1	1	1	1	1	1	1
1943	1	1	1	1	1	1	1	1	1	1	1	1
1944	1	1	1	1	1	1	1	1	1	1	1	1
1945	1	1	1	1	1	1	1	1	1	1	1	1
1946	1	1	1	1	1	1	1	1	1	1	1	1
1947	1	1	1	1	1	1	1	1	1	1	1	1
1948	1	1	1	1	1	1	1	1	1	1	1	1
1949	1	1	1	1	1	1	1	1	1	1	1	1
1950	1	1	1	1	1	1	1	1	1	1	1	1
1951	1	1	1	1	1	1	1	1	1	1	1	1
1952	1	1	1	1	1	1	1	1	1	1	1	1
1953	1	1	1	1	1	1	1	1	1	1	1	1
1954	1	1	1	1	1	1	1	1	1	1	1	1
1955	1	1	1	1	1	1	1	1	1	1	1	1
1956	1	1	1	1	1	1	1	1	1	1	1	1
1957	1	1	1	1	1	1	1	1	1	1	1	1
1958	1	1	1	1	1	1	1	1	1	1	1	1
1959	1	1	1	1	1	1	1	1	1	1	1	1
1960	1	1	1	1	1	1	1	1	1	1	1	1
1961	1	1	1	1	1	1	1	1	1	1	1	1
1962	1	1	1	1	1	1	1	1	1	1	1	1
1963	1	1	1	1	1	1	1	1	1	1	1	1
1964	1	1	1	1	1	1	1	1	1	1	1	1
1965	1	1	1	1	1	1	1	1	1	1	1	1
1966	1	1	1	1	1	1	1	1	1	1	1	1
1967	1	1	1	1	1	1	1	1	1	1	1	1
1968	1	1	1	1	1	1	1	1	1	1	1	1
1969	1	1	1	1	1	1	1	1	1	1	1	1
1970	1	1	1	1	1	1	1	1	1	1	1	1
1971	1	1	1	1	1	1	1	1	1	1	1	1
1972	1	1	1	1	1	1	1	1	1	1	1	1

COIN WORLD  
 NOV 22, 1972  
 page 70

The Alberta provincial government offered to redeem the Prosperity Certificates it had issued inside two years' time, provided they carried the full complement of stamps required to be placed weekly on the back of each certificate in circulation.

## Educator Urged Credit Plan

(Continued from page 68)

depression there were many people who sought ways to improve the economic situation. One of these men was William Aberhart. He was principal of Crescent Heights High School in Calgary and well-known throughout Alberta on account of his weekly radio broadcasts from the Prophetic Bible Institute.

During the summer of 1932 he was in Edmonton marking grade 12 final examination papers. In the evenings he and his colleagues got together, and in their informal discussions the economic theories of Scottish Major C. H. Douglas were argued out. Aberhart was convinced that Douglas's Social Credit proposals would cure the depression, and he was persuaded to obtain support for the movement through his weekly broadcasts.

In 1934 the United Farmers of Alberta government was rocked by two personal scandals. The time was ripe for a change and with a well organized campaign Social Credit Party, on August 22, 1935, became the governing party in Alberta, winning 56 out of the 63 available seats. The party swept to power on a platform of easing unemployment and attaining the long-sought prosperity by economic means, believing that this could be done by increasing the purchasing power among the people.

Early in 1936 a scheme was devised to inaugurate a series of public work projects throughout the province to reduce unemployment. The scheme was to be financed with Prosperity Certificates. At the second session of the legislature an act was passed known as "The Prosperity Certificates Act," which gave authority to the provincial treasurer for their issue.

The Act provided that:

1. Certificates to be issued in denominations of 25c, \$1 and \$5.
2. Total amount of all denominations not to exceed \$2 million.
3. Certificates to be redeemable at face value after

two years from the date of issue provided that at that time they had 104 stamps affixed to the back.

4. Stamps were to be in denominations of 1/4 cent, 1 cent and 5 cents. The one-fourth cent stamps were for use on the 25 cent certificates, the one cent stamps were for use on the \$1 certificates and the five cent stamps were to be used on the \$5 denominations.

Under the government's plan, the certificates would enter circulation as wages paid to laborers employed in relief work projects. They would circulate through the business world and be accepted for payment of all goods (excepting beer and liquor and the green stamps), provided they contained the required number of stamps affixed to the reverse side. A stamp was required to be placed on the back of the certificate each Wednesday, and whoever held the certificate on that day could not present it for the purchase of goods or the payment of debts until this had been accomplished.

Under the original proposal, the certificates were not to be redeemed for legal currency until two years had elapsed, and at that time only if they had 104 stamps affixed.

It was anticipated that the general public would attempt to spend the Prosperity Certificates before the date required for affixing the stamp and that the added expense of the stamps to the retailers would be made up by the increased business profits. The success of the programme hinged on public acceptance and cooperation in keeping the certificates moving. The faster they circulated, the more business that would be done.

To avoid contravention with the Federal Bank Act, the use and acceptance of these certificates had to be on a voluntary basis. The first step for the government to take was, therefore, to contact the various businesses in the province and solicit their cooperation. Hon. C. Cockcroft, provincial treasurer, was in charge of the plan and the Hon. Lucien Maynard was appointed as a one-man committee to act in an advisory and supervisory capacity. He wrote a letter to the major business firms in which he requested confirmation of their willingness to accept Prosperity Certificates

### Sponsor Coin Show

Midwest Coin Show in Kansas City, Mo., is a feature of the Heart of America Numismatic Association.

# Alberta Officials Sought Support For Certificates

(Author Hall continues to unfold the story of Alberta's attempt to "round the corner" to prosperity during the great depression through the issuance of Prosperity Certificates. The first part of this account appeared in the November 22 issue of Coin World. — Editor.)

By Lawrence B. Hall  
Calgary, Alberta

The government realized that some changes to the plan had to be made and agreed to allow redemption of surplus certificates by wholesalers and retailers once each month. The dates set for redemption were the Thursday, Friday and Saturday following the second Wednesday of each month. These dates were chosen to allow wholesalers, who had accumulated certificates as payment on invoices which were usually due for payment 10 days after the end of the month, to cash them in immediately rather than having to hold them for a period of time and place the necessary stamps on them in the meantime.

A meeting of 1,300 business representatives and government officials was held on June 18th in Western Canada High School in Calgary with the express purpose of presenting the government's position and to answer any questions put forward. The meeting was chaired by Mayor Andrew Davidson. Premier Aberhart and the honorable Lu-

cien Maynard spoke for the Government.

Maynard suggested that employees be encouraged to accept a portion of their salaries in surplus certificates, and he indicated that members of the provincial cabinet intended to do likewise. The meeting was quite heated and much opposition was expressed to the plan.

In spite of this opposition, plans for their issuance proceeded. Without any prior consultation with the Federal government or with the banks, a contract was awarded to Western Printing and Lithographing Co. Ltd. of Calgary to print 500,000 certificates in the denomination of \$1 and 10,000,000 one cent stamps.

The Prosperity Certificates were printed on bank note paper in four colors. The background was green, the lettering was black, the serial number and date of issue was in red, while the signature of the deputy provincial treasurer was in blue.

Printed on the certificate was the agreement: "The Provincial Treasurer will pay to the bearer the sum of one Dollar on the expiration of two years from date of issue hereof upon presentation hereof provided there are then attached to the back hereof one hundred and four one-cent certificate stamps." The certificates carried the signatures of William Aberhart, premier, Charles Cockroft, provincial treasurer and the countersignature of the deputy provincial treasurer, J. F. Percival.

The design was prepared by Western Lithographing and the certificates lithographed from stone engravings. One of these stone engravings is known to exist and weighs in the neighborhood of 40 pounds. Proof copies of the certificates were made, but were burnt after examination by the King's printer.

The half-million certificates were numbered numerically, with an "A" prefix starting at 1001.

The stamps, measuring ½ by ¾ inches were printed in book form, each book containing 1,000 stamps. They were also available in sheets of 100. The sale of these stamps was handled by 606 vendors throughout the province, who received a commission of two percent on all sales. The agent in charge of distribution in Calgary was Ernie King of 231A 8th Avenue S.W. Of the 30 vendors in the city of Calgary, most were small groceries and confectioneries. Each vendor was initially supplied with approximately \$20 worth of stamps. At the end of the first month that the plan was in operation they had been reimbursed by the government to a total of 195,097 stamps.

The first issue of \$250,000 was throughout the entire province on the basis of \$5,000 per consti-

tuency. Certificate No. 1001 was purchased by the Honorable W. A. Fallow, minister of public works. The next few certificates were sold to newspaper men at the opening ceremonies at \$1 each. It would appear that the first 13 certificates, Nos. 1001 to 1014 were sold in this manner.

The certificates were mailed to foremen of the various work crews, to be distributed to the workmen, the majority of whom worked an eight-hour day, 22 days a month. The pay for laborers was 40 cents per hour. The maximum amount of scrip issued to each man was \$40 and any monthly earnings over this amount were paid the following month. Workers in the Calgary constituency were employed on road construction in Forest Lawn and at Bowness.

The first certificates to reach Calgary stores were brought in on August 10 by workmen on road projects at Cochrane. They were initially treated as a novelty and a curiosity and premiums of from \$1.25 to \$5 were reported to have been paid by collectors and souvenir seekers. One woman who had undoubtedly obtained her husband's entire allotment stated that this was the first real buying splurge she had enjoyed in five years. Nagler on Second street East accepted 275 certificates the afternoon of the first day and had so many requests for them that they had none left by 10 a.m. the next day.

A butcher displayed his first certificate in his window and refused to part with it for less than \$5. He said that he could have got rid of 150 of them if he had had them. The Calgary Herald had opposed the scheme from the beginning and had forecasted its non-acceptance. It therefore was most annoying to one reporter that he could not obtain a specimen for the paper without having to pay a premium for it.

Not all downtown businesses accepted the certificates. The firm which perhaps benefited most by the increase in business was Nagler's Grocery and Hardware. This general merchandizing store attracted a large number of out-of-town shoppers and accepted all certificates presented. Other businesses in the downtown area which accepted certificates included George McLeod Ltd., Reid's Cooperative, City Hall Market, York Barber Shop, Kresges, and numerous other smaller establishments.

Included in those firms which refused to accept the scrip were banks, most bread and milk companies, law firms and the larger department stores.

The novelty soon wore off however. Although the businesses which accepted them prospered through added sales, the public was reluctant to accept the scrip as change at the stores. The retailers were then forced to turn in their surplus certificates on the day allocated for redemption.

Of the 232,779 certificates issued during August, 144,280 were present for redemption the following month. Of these, 30,963 were reissued. In October, 70,031 were redeemed and only 7,061 issued.

(To be continued.)

# Merchant, Public Resistance Doom Alberta Prosperity Certificates

By Lawrence B. Hall  
Calgary, Alberta

(The story of Alberta's Prosperity Certificates — not quite a success, but not a total failure either — concludes in this issue. — Editor.)

It was soon clear that the required cooperation of the merchants and general public to keep the certificates in circulation was not being received. By the end of the year, only 41,022 certificates were in circulation, and this was reduced even further in January, 1937, when double the number of certificates issued that month were redeemed.

Other problems soon developed. As certificates passed through a number of hands, it was found that when the bills became crinkled the stamps did not adhere to them. In some instances, it was necessary to staple the stamps on to the back of the certificate.

In addition, many merchants, although willing to accept certificates as part or full payment on larger items, were reluctant to accept them for items costing less than \$1 and give out the difference in legal coins. Some solved this problem by issuing credit coupons or tokens. Coupons are known to have been issued in Lethbridge in denominations of 25 cents and 50 cents for this purpose, while tokens were issued at St. Paul and in Calgary.

In an effort to ensure greater participation in the program, the government put forth a proposal to the cities of Calgary and Edmonton. The federal government

Month	Year	Issued	Redeemed	Outstanding
August	1936	\$ 232,779	\$ -	\$ 232,779
September	"	30,963	144,280	119,462
October	"	7,061	70,031	56,492
November	"	21,037	29,605	47,924
December	"	21,565	28,467	41,022
January	1937	12,336	23,505	29,853
February	"	17,977	15,998	31,832
March	"	14,059	15,833	30,058
April	"	1,737	10,077	21,718
May	"	247	1,251	20,714
June	"	10	884	19,840
July	"	5	163	19,682
August 1937 to Jan. 1955		363	406	19,639
		<u>\$ 360,139</u>	<u>\$ 340,500</u>	<u>\$ 19,639</u>

Chart depicts the issuance, redemption and quantities outstanding of Alberta's ill-fated Prosperity Certificates during the depression. As can be noted, the plan failed to survive a full year successfully. Certificates were actively in force from August 5, 1936, to April 15, 1937. (Courtesy Provincial Treasury Department of Alberta).

allocated relief allowances to the province for distribution. The provincial government proposed to increase the allocated amount to Calgary and Edmonton if these cities would accept payment in Prosperity Certificates. Calgary City Council turned the proposal down, but the city of Edmonton accepted the scheme under which it would receive \$85,000 in Prosperity Certificates in lieu of a \$55,000 cash grant for unemployment relief.

A court case soon arose to test the validity of the Prosperity Certificates. R. H. Watson, an Edmonton mining engineer, began a suit against the province and the city of Edmonton. The province contended that the certificates were not intended as mediums of exchange or legal tender under the Bank Act. Nevertheless, Watson obtained a court injunction restraining Edmonton from accepting the scrip.

In a last desperate effort to keep the plan alive and to instill confidence in the scheme, civil servants were "invited" to purchase small quantities of scrip every payday. They apparently responded, as in November \$15,000 in certificates were issued for this purpose.

The concession to the wholesalers and retailers, allowing redemption of surplus certificates for legal tender each month and the general reluctance of the public to accept certificates as change, doomed the plan to failure. Even the cabinet members failed to keep their part of the bargain which they had made earlier. On April 7, 1937, the Government announced that it was abandoning the Prosperity Certificate plan. The plan could only work on a compulsory acceptance basis and this was impossible to accomplish because of restrictions imposed by the Federal Banking Act.

The government continued to hold the certificates in its vaults for many years thereafter. In 1947, it was chided about the funny money lying around and decided to have the certificates destroyed. On June 3rd of that year, 230,361 redeemed certificates and the 250,000 unused certificates were destroyed. In

addition, 9,724,040 of the originally printed 10,000,000 certificate stamps were destroyed.

The province first, however, set aside 250 certificates for sale at face value as collectors' items. The last of these certificates was sold in January, 1955.

Still outstanding are 19,639 Prosperity Certificates. Many are undoubtedly lost and others are in the hands of collectors. These certificates are still redeemable at face value, less the number of stamps short of the 36 which should have been affixed during the period August 12, 1936 to April 14, 1937. In other words, a certificate with no stamps affixed can be redeemed for 64 cents (\$1, less 36 cents). The collector's value to the present time far exceeds this amount, and, as might be expected, no certificates have been redeemed by the government since 1955.

What was the ultimate contribution of the Prosperity Certificate to the unemployment problem of the day? This can only be estimated, as many records of the period are now lost. As stated previously, the total value of the certificates issued was \$360,000. Ignoring the small percentage of certificates that were accepted by civil servants as salaries, all the scrip was issued as wages to laborers on new public work projects that would not have been started if the certificates had not been available.

Based on the average wage of 40 cents per hour, approximately 900,000 man-hours of work were created as a result of this program.

The certificates today are valued as mementoes of that period in Alberta's history when unemployment and poverty were at their worst, and optimists expressed the belief that "prosperity was just around the corner."

# *Graham Towers and His Times*

A Biography by  
DOUGLAS H. FULLERTON

McClelland and Stewart

# Contents

	<i>Foreword by Gerald Bouey</i>	7
	<i>Preface</i>	9
	<i>Acknowledgements</i>	11
ONE	Learning and Growing	15
TWO	The Great Depression	27
THREE	The Bank of Canada is Born	41
FOUR	Governor Towers of the Bank	55
FIVE	The Wheat Crisis and Prairie Problems	71
SIX	Towers as Communicator; War Tension Grows	87
SEVEN	Private Lives	103
EIGHT	The War: "At Britain's Side"	117
NINE	Financing the War: Exchange Problems, Controls, the Provinces	137
TEN	Financing the War: A Victory for Savings	155
ELEVEN	Post-War Planning: Pessimism Reigns	171
TWELVE	World Recognition: Towers in Demand	187
THIRTEEN	Graham Towers and the Post-War Loans to Britain	205
FOURTEEN	Inflation, Import Restrictions, U.S. Free Trade	223
FIFTEEN	Criticism of Exchange Rate and Monetary Policies	239
SIXTEEN	Winding Down to Retirement	259
SEVENTEEN	Professional Director	277
EIGHTEEN	The Final Years	297
	<i>Appendix</i>	307
	<i>Sources and Notes</i>	315
	<i>Index</i>	343

## *The Wheat Crisis and Prairie Problems*

**T**HE BANK OF CANADA was firmly in place and functioning well by the end of 1935, and the national economy was improving slowly. Graham Towers might be pardoned for feeling rather pleased about the year's accomplishments. But his pleasure did not last long. The economic improvement was largely concentrated in Ontario and Quebec; the prairie provinces, and the wheat economy on which they so largely depended, had become a chronic disaster area.

The wheat problem was to last until a year or two into the Second World War, and would lead to financing difficulties for the government of the prairie provinces and to severe mortgage problems for western farmers. The problems were not just weak foreign markets for wheat and low wheat prices, but the impact, on production, of the severe drought in the last half of the decade. The story of wheat through the thirties is told concisely below in one table from Charles Wilson's study of the industry, *A Century of Canadian Grain*.<sup>1</sup>

Looking at the figures, one can understand the despair of western grain farmers. Production was good in the early thirties, but the market collapsed and the prices hit bottom. Then, when prices picked up in the mid-thirties, the prairies were hit by drought, insects, rust disease, and dust storms. The rains came in 1938 and 1939, doubling production, but the price of wheat fell by almost 50 per cent. Wilson cites George Britnell, a western economist, who sums up the wheat farmers' disastrous position:

Faced with dwindling markets, effectively prevented by the tariff from cutting costs, they are forced to sell their wheat crops



Wheat Acreage, Yield, Production,  
Average Farm Price and Total Farm Value  
Prairie Provinces 1928-29 to 1939-40

<i>Crop Year</i>	<i>Seeded Acreage</i>	<i>Average Yield per Seeded Acre</i>	<i>Production</i>	<i>Average Farm Price</i>	<i>Total Farm Value</i>
	<i>'000 acres</i>	<i>bu.</i>	<i>'000 bu.</i>	<i>\$ per bu.</i>	<i>\$'000</i>
1928-29	23,158	23.5	544,598	0.78	424,039
1929-30	24,197	11.5	279,336	1.03	287,671
1930-31	23,960	16.6	397,300	0.47	187,279
1931-32	25,586	11.8	301,181	0.37	112,480
1932-33	26,395	16.0	422,947	0.34	144,333
1933-34	25,177	10.4	263,004	0.47	123,198
1934-35	23,296	11.3	263,800	0.60	159,027
1935-36	23,293	11.3	264,096	0.60	159,677
1936-37	24,838	8.1	202,000	0.92	185,580
1937-38	24,599	6.4	156,800	1.03	161,016
1938-39	24,946	13.5	336,000	0.58	196,380
1939-40	25,813	19.1	494,000	0.53	264,145

at a heavy loss and live out of capital. The results of such a situation are seen in the exhaustion of reserves, a mounting burden of private and public debt and of governmental relief, abandoned farms and a steady depreciation of machinery, buildings and equipment, a sharp decline in the standard of living of the entire agricultural population, and all the other marks of a chronically depressed economic region.<sup>2</sup>

The wheat crisis put the banks on the firing line in the west, and they suffered sizeable losses on loans to farmers. More damaging to the banks, perhaps, were the permanent scars on their image caused by actual or attempted foreclosures on farm properties. Canada's branch-banking system had never been popular in the west, where farmers saw the decision-making power centred in eastern headquarters. Across the border in the United States were small, locally run banks, free from eastern domination. The large Canadian banks survived much better than did the weaker American independents from 1930 to 1933, but this did not provide solace for Canadian farmers whose savings had been consumed in their own fight for survival.

On the prairies in the thirties, the banks came to rival the Canadian Pacific Railway as the farmers' favourite whipping-boy. (The oldest joke in the west is the description of a farmer, awash in hailstones, shaking his fist at the heavens, shouting, "God damn the CPR.") Using the CPR and the banks as a target, populist politicians in the CCF and Social Credit movements gained ground at the expense of the old parties. Between 1935 and 1945, the CCF and Social Credit parties each won a provincial election, and both parties captured many seats in the federal government.

Nothing in Towers' study of central banking had prepared him for the total economic collapse of a large area of the country. Monetary policy could only be applied nationally; it could not be differentiated regionally. In any event, monetary policy had definitely been easy, and in 1935 interest rates on Government of Canada bonds ranged from about 2 per cent on five-year bonds to about 3 per cent on fifteen-year issues. Flooding the banks with more credit-created money, driving already low interest rates still further down, did not make too much sense to Towers.

Early in 1935 Towers received inquiries from his connections at the Bank of England about Canadian provincial debt, of which the British were large holders, and the ability of the provinces to refinance maturing issues. Within months of the opening of the Bank of Canada, ministers and treasury officials from several western provinces had called on Governor Towers, seeking loans or other assistance from the Bank. Towers explained to them the difficulties facing the Bank in responding to such requests. (See Appendix.) The alarm bells began ringing in Towers' mind, however, about the possibility that provincial default might be contagious, and serious enough to threaten confidence in Dominion bond issues and in Canada's credit generally. Towers was thus predisposed to be sympathetic to provincial pleas for help, but he still had the instincts of a banker, and he wanted to look at the books.

#### ELECTIONS

Two elections called in the second half of 1935 had a bearing on provincial problems. Without much optimism, Prime Min-

ister Bennett called a federal election, to be held on October 14, 1935. Mackenzie King and his Liberals won a resounding victory: 171 Liberals were elected, but only 39 Conservatives; there were 17 Social Credit members and 7 members of the CCF party. One of the first acts of Prime Minister King was to call a Dominion-provincial conference, to be held in December.

Several months earlier, on August 22, an election had been held in Alberta. The angry voters were clearly in a mood for change, and were voting against the depression; William Aberhart and his Social Credit party won in a landslide. The Social Credit party had become infatuated with the radical monetary theories of one Major Joseph Douglas, from Britain. To understand the convolutions of Douglas' thinking and formulae is not easy, but essentially Douglas defined the problem of depression as a lack of credit in the economy. He proposed, as a solution, that the government print more money and get it into circulation. A seemingly plausible approach for the times, it was put forward in confused terms, and with no awareness of the constitutional impossibility of applying the approach within a Canadian province. Social Credit experiments were found *ultra vires* of the constitution, and the program got nowhere.

In his history of the thirties, Bryce tells the story of how, even before the Alberta government took office, there had been a run in Alberta on provincial savings certificates. Repaying them cleaned the government out of cash, and Aberhart tried to get a loan from Bennett during the federal election campaign. Bennett advanced Alberta \$2¼ million to cover urgent requirements until the election. Immediately before King's Dominion-provincial conference, in December, E.C. Manning, acting premier of Alberta, sent a letter to the principal bond dealers in Canada to tell them of Alberta's desperate financial situation, to suggest its debt might be refunded at lower interest rates. Bryce noted that this action "destroyed what was left of the credit standing of the Alberta government and lent considerable urgency to the search for some solution of the debt problems of Western provinces generally."<sup>3</sup>

#### LOAN COUNCILS

At the Dominion-provincial conference, in December 1935, the most urgent discussions were about the financial positions

of the provinces. As Bryce has noted, one proposal was to use the Australian Loan Council as a possible model. Charles Dunning suggested the establishment of a National Loan Council, through which provinces with serious financial difficulties would be able to refund their outstanding debt into provincial bonds guaranteed by the Dominion, enabling the bonds to carry a lower interest rate. The Dominion would expect participating provinces to jointly indemnify it for half of any loss it might incur in implementing its guarantee.<sup>4</sup> Loans would be subject to approval by the National Loan Council; the Dominion would have half the voting power on the council. Apparently only a minority of provinces wanted to participate, but all the provinces seem prepared to have the BNA Act amended to authorize the Dominion to guarantee provincial obligations against a pledge of subsidies under the BNA Act as security. Variations of the proposal emerged later, including a separate loan council for each province accepting the principle.

On January 2, 1936, Towers gave Dunning a memo on loan councils. In his diary he wrote: "Emphasized seriousness of default with no explanation or plan. He hopes for speed if he gets agreement from his colleagues on loan council guarantee plan on January 8." On January 12 Towers dined with Clifford Clark, J.A.C. Osborne, and Ken Henderson, the Bank's security adviser. He noted in his diary: "Agree that Dominion guarantee of provincial obligations very bad unless full powers of control given Dominion. Agree Dominion should have power to put in its officers to collect revenue if province defaults."

Active discussion on loan councils occurred in Ottawa for the next four months. Missing from the discussions was evidence of generosity of spirit on the part of the Dominion government. Doctrinal, political, and constitutional considerations affected the federal position. Mackenzie King was initially in favour of the loan-council approach, but he was appalled at the growing burden of relief payments on the Dominion government; he felt strongly that the payments were a provincial responsibility. King was orthodox in his financial beliefs, including that of the virtues inherent in a balanced budget. Blair Neatby reported that King "had convinced himself that Bennett's grants-in-aid to provincial governments had encouraged extravagance and waste . . . the principle of contributing grants is, without doubt, a vicious one."<sup>5</sup> But some of King's col-

leagues were starting to balk at the loan-council idea, and King's enthusiasm for the council began to wane.

The loan-council approach was someone's bright idea that should have been stillborn. No one in authority in Ottawa had thought it through, or seen that, from the perspective of the provinces, it was patronizing, condescending, and arrogant. Implicit was the suggestion that the provinces were in trouble because they had mismanaged their affairs, and that what they needed was to have Ottawa come in and tidy up their mess. This was difficult for the wheat provinces to accept, when their problem was an abnormal and persistent combination of drought and seriously depressed world markets for wheat.

The amounts required to help the provinces to cope with their debt problems were not great. The sensible approach at the time would have been the advancing of modest federal loans, at low interest rates, to tide the provinces over for a few years. The federal debt position was in great shape; foreign debt was being repaid rapidly. (From 1933 to the third quarter of 1938, it was reduced by \$731 million.) There was no fiscal restraint to prevent Ottawa from helping the provinces on a short-term basis.

To what extent Towers was personally committed to the loan-council idea is not clear. His primary goal was to keep provincial ships from grounding on the rocks of default. His first choice was grants, but King and his ministers had shown little enthusiasm for grants without strings. If loan councils proved to be a device that would get the provinces the money they needed to survive, Towers would go along. But in early 1936, Towers' support of loan councils, like Mackenzie King's, began to fade.

#### ALBERTA DEFAULT

After the conference in December, Alberta had received \$1.6 million to meet a maturing loan of \$2 million on January 15, 1936. British Columbia received \$4.3 million to help meet a maturing loan of \$5 million on February 15. These were the last two grants authorized on the old basis. When the new regime came into effect, grants would need the approval of a

loan council for the province. Bryce says that Alberta Treasurer Charles Cockroft wrote to Finance Minister Charles Dunning requesting a further \$2.65 million for April 1, on the same terms as the January grant. The letter reached Dunning just after newspaper reports of Premier Aberhart's announcement that the Alberta government would introduce legislation to reduce unilaterally the interest rates payable on its debt, without any reference to the proposed loan-council arrangements. Dunning said no to Cockroft, and telegrams flew back and forth. There was heated debate in the King cabinet, but King and his colleagues came down on the side of Dunning; no further advances were to be given, even if it meant default. But the proposed loan-council amendment of the BNA Act was, for the moment, put on hold, so that provincial approval of a loan council would be completely voluntary. Nevertheless, without evidence that the provinces would go along with the idea in principle, no loans were to be provided.<sup>6</sup>

Aberhart resisted, seeing the danger of federal control over Social Credit policies, and on April 1, 1936, Alberta defaulted. Further Alberta defaults followed later, and the province arbitrarily cut interest rates on Alberta bonds. Graham Towers noted in a memorandum on April 18 that "both foreign and domestic markets have tended to regard the Alberta situation as a very special affair . . . a temporary aberration . . . [and that] default would be confined to that one province."<sup>7</sup> But Towers was still worried about the danger of a second province defaulting; British Columbia and Saskatchewan were next on the refunding list. British Columbia found enough money to repay its loan, but, as Towers noted in his diary, he was still concerned about a second default in a month, and volunteered to have the Bank lend Saskatchewan the funds against a written undertaking that it would be replaced by a loan under the loan-council scheme when it was enacted. King and Dunning agreed.

By his action Towers may have seemed committed to the fight for the loan council, but a memorandum he wrote on April 18, 1936, puts a different cast on his reactions. Towers put forward a number of reservations about how loan councils could work, and outlined a temporizing course, which suggested the possibility of other, more long-term courses of action:

We should preserve the status quo, keep the west on its feet in some form, and in the course of the next few years judge whether country-wide action is required or whether recovery is a character which enables us to bear the debt burden in its present form. If the revival in world trade which has already been experienced is not continued, and the country should find itself under the necessity of taking more drastic steps to promote a better-balanced economy, then a comprehensive scheme affecting all classes of the community and consisting of a number of different measures might have to be planned and put into operation. The worst way to deal with our difficulties is to allow the strains which have been set up to be relieved by piecemeal defaults.<sup>8</sup>

By mid-April, however, the lack of enthusiasm for loan councils was becoming general. Nevertheless, as Bryce reports, on May 14 the government introduced a resolution into the Commons "requesting the British Parliament to amend the BNA Act to authorize the Dominion to guarantee provincial loans on specified conditions, and to extend and clarify provincial taxing powers."<sup>9</sup> The resolution was passed the next day, despite R.B. Bennett's opposition, but it was defeated in the Conservative-ruled Senate, the approval of which was required for such an amendment. King by this time had had quite enough of loan councils, and was glad to see the resolution fail.

#### TOWARDS A ROYAL COMMISSION

Towers had observed that the loan-council scheme had not found favour because of its invasion of provincial sovereignty, and that the proposal had contributed to mutual distrust between the federal and provincial governments. But he was flexible and ready to find an approach that made more sense; the country's financial problems were not going to go away. He had been listening increasingly to Alex Skelton, who, in a March 20 memorandum, had criticized the idea of individual provincial loan councils; he thought that none of the provinces was prepared to surrender any real measure of financial autonomy. Skelton proposed instead to build up the secretariat

of the advisory National Loan Committee, which could be turned into an effective, working National Finance Council.<sup>10</sup>

On August 16, 1936, Towers wrote in his diary: "Question of how to help western provinces actually and psychologically uppermost in our minds these days. If they can carry on – as seems likely, apart from relief – they should get encouragement."

Skelton was told to begin with the kind of research projects such a council might undertake. In the summer of 1936, economist Dr. A.E. (Dal) Grauer of the University of Toronto, an old friend of Skelton's at Oxford, was brought in to do work on the distribution of taxing powers in Canada. Grauer proposed centralizing the income tax by placing it exclusively in federal hands, relieving the provinces of responsibility. His scheme would help offset regional inequalities and meet regional fiscal requirements. Bryce says that Grauer's study was well received in the Bank and in the Finance Department, despite (or perhaps because of) the centralist overtones in his proposals.<sup>11</sup> The study led to the idea of a royal commission to study the division of taxes and of expenditures between the Dominion and the provinces, a suggestion that Towers and Skelton relayed to Clark and Dunning. On October 20, 1936, Towers wrote Dunning saying that creation of such a commission would justify "a policy of temporizing with the public debt situation of the western provinces."<sup>12</sup> Supporters of the royal commission now had to win the support of Mr. King if the commission was to replace the loan council as an acceptable rationale for continuing provincial aid.

Meanwhile, Towers was broadening his understanding of western problems in other ways. He continued to meet with western premiers and their financial officials, and was well received by them. In his diary entry for May 19, he recounts one meeting with Aberhart and Cockroft at Ottawa's Chateau Laurier in mid-May: "Tried to disabuse Aberhart's mind of suspicion that (a) Dominion Government had given British Columbia money (by stealth) to meet the May 15th maturity [and] (b) that there was a Dominion guarantee or some catch in connection with our loan to Saskatchewan." Next day he saw Aberhart again, at Clifford Clark's for dinner. Diary entry, May 21: "General talk re economic matters, Social Credit etc.



Trying to set them right on some very simple matters. God knows if we did, but atmosphere helpful."

In September 1936, Towers made his first trip as Governor of the Bank of Canada across the prairies to Vancouver and Victoria. He gave speeches along the way, most of them to explain the functions of the central bank; he stayed off controversial issues. Towers did confirm that banking policy in the depression was expansionist, but that easy money did not guarantee recovery unless other economic factors were favourable. He received a good press, and met many government officials, newspaper editors, and wheat-pool officers. He did not run across many farmers, but he was certainly exposed to western opinions and western complaints.

In November, Towers went to Europe, covering his usual circuit of central bankers. Montagu Norman, his views perhaps clearer because of his distance from the scene, told Towers that allowing any form of western default was unwise, that it would be "cheaper to lend badly affected provinces a couple of years' interest to tide them over. Of course if tiding over was no good, one must accept a reorganization later on, but he believes the West will stage a recovery."<sup>13</sup>

Between December 9 and 11, 1936, Towers attended a meeting of the National Finance Committee (of finance ministers), which had been set up at the 1935 Dominion Provincial Conference. Bryce says, "Towers made a brilliant intervention at a key stage to emphasize the need for developing a better understanding of the Dominion-provincial fiscal problems, [and that] . . . if nothing were done, one must expect further provincial defaults."<sup>14</sup> Towers also gave his political audience a lesson in the theory and practice of the monetary operations of the central bank. He discussed possible relationships between the Bank of Canada and a province, and listed the problems the Bank might face from conflicts between the Bank's primary function – to control the cash basis of the banking system in Canada as a whole – and the simultaneous demands of the Dominion and several provinces for loans.

On December 15, Dunning tried to obtain cabinet approval for the royal commission. The cabinet, however, was not ready to go along, because the members had not accepted the con-

sequences that might flow from the default of the provinces. Neatby quotes King:

The Cabinet . . . was practically united in opposition to more loans as simply sending good money after bad money, continuing the error made by Bennett. . . . Canada's credit would be strengthened by its being seen through the world that we were ceasing to bolster up impossible positions.<sup>15</sup>

That was a hard line, and the arguments went back and forth. Towers finally persuaded King of the adverse consequences of another provincial default. Eventually King agreed that the Bank should carry out a study of the financial positions of Manitoba and Saskatchewan. Towers sent Alex Skelton out to Winnipeg immediately, with Ken Henderson and Robert Beattie; Towers joined them briefly between February 2 and 5, 1937. Meanwhile Skelton moved on to Regina, and John Deutsch, a new Bank recruit from Saskatchewan who had studied at Queen's, helped Skelton complete the Saskatchewan study.

The Manitoba report was quickly prepared, and on February 12 Towers sent a summary of it to King and Dunning, saying that only a royal commission could provide the comprehensive survey needed. Towers urged King to extend financial aid to Manitoba. Manitoba Premier John Bracken faced a deadline; on February 18 he would meet his legislature. Bracken said that if a royal commission had not been approved by that date, he would announce his government's intention to cut interest rates on outstanding bonds. On February 16 King gave in, and announced in the Commons that there would be a Royal Commission on Dominion-Provincial Relations to "investigate the financial relations of the provinces, and assist Manitoba and Saskatchewan pending the report." The Rowell-Sirois Commission, as it came to be known, was finally launched.<sup>16</sup> Bennett complained that Alberta had been left out. After another study by the Bank's shock troops, it was included, although the report found Alberta to be in better shape than the other two provinces.

This story has been a long and rather sorry saga of Ottawa equivocation in the face of a monumental national problem.

King and his colleagues had been fiddling while the prairies were burning, and their failure to act sooner may have led to a long-term decline in Liberal fortunes in the west. Admittedly, the advice from officials, principally Clark and Towers, had not been entirely consistent, for they displayed at least as great a concern about the state of the federal budget, and of federal borrowing capacity, as they did about the problems of the wheat farmer.

Towers came out of the long, drawn-out provincial discussions perhaps less damaged than other Ottawa officials. He had vacillated at times, but had based his ultimate stand on his own central belief that provincial default should not be allowed to occur. He and Skelton received credit for the creation of the Rowell-Sirois Commission. Towers had become a national figure, and had established friendly relations with provincial ministers and other financial officials. He had been through a crash course in federal-provincial relations, and, for a person used to direct speaking and quick action, he had shown remarkable patience with the intricacies of the Canadian political system.

Most of all, Graham Towers made it clear that, despite his role as federal adviser, he spoke from a position of some independence from the government in Ottawa. Provincial authorities learned to respect Towers' judgement and advice.

#### CENTRAL MORTGAGE BANK

Keeping the provinces afloat was only one aspect of the western debacle. The farmers were in trouble with their loans and mortgages. One loose end left over from the recommendations contained in the 1933 Macmillan Commission Report concerned the need for better short- and medium-term rural credit.<sup>17</sup> The commission had had little time to focus on anything but the central bank, but one short chapter, "Agricultural Credit," touched briefly on the impact of falling prices on farmers, and on the prairies in particular. The commission did not have enough background information to put forward a proposal itself, but stated "the need is a real one," and urged the Dominion government to act.

Work on a new government mortgage program had been

going forward in the Finance Department, which had been responsible for the Farmers' Creditors Arrangements Act in 1934.<sup>18</sup> The act had been an attempt to keep financially troubled farmers on their farms, and to give farmers in default some relief. Federal-provincial conflicts developed over jurisdiction, and by 1938 the act could not be enforced in some provinces. The problem did not go away, however, as prairie wheat difficulties persisted. In many cities house values remained similarly depressed; high interest rates on mortgages and much-reduced incomes were not just prairie farm problems.

Early in 1939 Clifford Clark devised a plan for new federal legislation that would involve government participation in "sharing the cost of writing off the excess debt as an inducement to creditors." Bryce notes that Clark obtained Dunning's support for the plan, and then "with some difficulty . . . persuaded the Governor and Deputy Governor of the Bank of Canada to support it."<sup>19</sup> Towers, originally not in favour of tampering with private mortgage arrangements, had rethought his position. He concluded that, if nothing were done, some loan and trust companies might go "into liquidation," and nobody else would want to get into the business, depriving large sections of the country "of access to mortgage funds." He believed this would lead to a new demand for a government "national mortgage bank dealing directly with borrowers," demands to which he was opposed. His suggestions on the form the legislation should take were followed closely in the draft bill.<sup>20</sup>

On May 6, 1939, Finance Minister Charles Dunning introduced in the House of Commons a bill to create a Central Mortgage Bank.<sup>21</sup> The new bank was to be owned by the government and run by the Bank of Canada. Money would be loaned at 3 per cent to lending institutions that qualified, the key requirement being that the institutions must agree to adjust interest rates down to 5 per cent on farm mortgages and to 5½ per cent on urban property, and to write off interest arrears and overvaluation.

The bill went through the House and the Senate as war drew closer. The act was proclaimed, and the first board meeting was held on July 14; David Mansur resigned from Sun Life on that day to become general superintendent of the Central

Mortgage Bank. Once war was declared, however, the government decided that, because of uncertainty about the impact of war on property values, on interest-rate trends, and on the competing use of the national credit, the Central Mortgage Bank should not begin operations. The bank remained in suspension until it was dissolved after the war; the recovery in farm and house prices had made the bank less relevant. Some of its proposed functions were assumed by the new Central Mortgage and Housing Corporation, of which David Mansur became the first president.

#### BANK STAFF MATTERS

J.A.C. Osborne had become deputy governor of the Bank of Canada in December 1934, with a contract of up to five years. His Bank of England background had made him a valuable tutor to Towers and others in the ways of central banking, but he had been more than an adviser, and was actively involved in policy matters. Osborne was regarded by the Bank staff as fair and impartial, but his English mannerisms and Bank of England traditions did not endear him to everyone, notably to Donald Gordon.<sup>22</sup>

Early in May 1936 Gordon walked in on Towers and told him that he had received a good offer from his old firm, the Bank of Nova Scotia. Possibly Gordon had arranged for the offer to be made. Two entries in Towers' diary record the result:

- May 8. agreed with exec. committee that we should offer Gordon up to \$12,500 to retain him from Bk. of N.S. Had long talk with G., stressing scope & interest of his possible work
- & it is with this in mind that we are so anxious to retain him
- but making no suggestions re future positions. He must judge. He is to answer next week.
- May 12th. Gordon decides to stay.

Gordon's pay raise may have satisfied him for the time being, but his restlessness continued. In 1937 Osborne's wife fell ill; she died in 1938, and Osborne resigned in September. On September 12, 1938, Gordon was appointed as deputy governor.

Dean Marble of the Royal Bank replaced Gordon as secre-

tary. In late 1935 and 1936 other important additions were made to the staff. George Watts and W. Elwynne Scott joined the Research Department as economists, and became valuable members of the team; Watts specialized in balance of payments, Scott in banking.

#### THE WESTERN INFLUENCE

Towers' early recruiting on the financial and banking side had drawn heavily on Montreal and Toronto sources. The Bank's research department was to draw almost as heavily from the west. Although the research head, Alex Skelton, was from Kingston, he had learned about western issues when working as a professor in Saskatchewan. Robert Beattie, from Manitoba, was an early recruit. He was followed in 1936 by John Deutsch from Quinton, Saskatchewan, who graduated from Queen's, and worked with Skelton at the Bank and on the Rowell-Sirois Commission. Deutsch later became a senior official in Finance and External Affairs, active principally in trade and tariff matters. He proved to be the most mobile of the early Bank recruits, working on royal commissions and international conferences, and chairing the Economic Council. He became principal of Queen's University in 1968.

Another western recruit was James Coyne, like his friend Beattie, a Manitoba Rhodes Scholar. Coyne had been working as a lawyer for the Turgeon Grain Commission, and in his prairie travels he had kept bumping into Skelton, Beattie, and Deutsch, who were doing the provincial studies for the Rowell-Sirois Commission. Coyne served in many wartime administrative bodies, including the Foreign Exchange Control Board and Wartime Prices and Trade Board, and was briefly financial attaché in Washington, before leaving to be a pilot in the Air Force between 1942 and 1944. He became the second Governor of the Bank in January 1955, after Towers resigned.

David Mansur, hired to head the Central Mortgage Bank, was another University of Manitoba graduate. Two important post-war recruits to the Bank should also be mentioned. R. William Lawson, another Manitoba Rhodes Scholar, saw brief service in the Foreign Exchange Control Board before becoming an officer in the Survey Regiment of the Artillery. He went

back to the Bank on returning from overseas, and became senior deputy governor in 1973. Gerald Bouey of Saskatchewan went to Queen's University after serving in the Air Force. Like Lawson, he entered the Bank through the research department, and in 1973 became the fourth Governor.

A HISTORY  
OF  
CANADIAN IMPERIAL  
BANK OF COMMERCE

BY  
ARNOLD EDINBOROUGH

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# CONTENTS

	PAGE
Foreword .....	v
Contents .....	vii
CHAPTER	
I. THE TALLEST BUILDING .....	2
II. THE TERRIBLE '30s .....	20
III. TROPICAL VENTURES .....	52
IV. THE WAR YEARS .....	80
V. POST WAR EXPANSION .....	110
VI. MANAGING CHANGE .....	133
VII. IMPERIAL BANK OF CANADA .....	163
VIII. EXPANSION EVERYWHERE .....	180
IX. WHOLESALE TO RETAIL .....	194
X. CREDIT CARD BANKING .....	217
XI. SHAPING THE FUTURE .....	245
APPENDIX	
A. ....	275
B. ....	282
INDEX .....	285

## CHAPTER II.

### THE TERRIBLE '30s



IR JOHN AIRD's brave words about the Depression were prophetic in one sense: no one, and no country, would take a "flying leap from depression to prosperity." It would be ten gruelling, hard, politically confused years before the Depression was finally over.

The causes of the Depression are pretty clear in hindsight. Wild speculation on the New York stock market, and equally flamboyant margin-buying on Canadian exchanges during the latter half of the 1920s came to a sudden halt in October 1929. The whole credit pyramid toppled. Required to cover their stock purchases, buyers merely defaulted. Prices tumbled. Abitibi fell from a high of  $57 \frac{3}{4}$  in 1929 to 1 in 1932. Canada Cement fell from 36 to  $2 \frac{3}{4}$  in the same period. International Nickel went from  $72 \frac{1}{2}$  to  $4 \frac{1}{8}$ , Winnipeg Electric from  $109 \frac{1}{2}$  to 2.

But the end of greedy speculation, mostly unregulated by the exchange authorities, did not cause the Depression. It merely triggered it.

The real causes were much deeper.

In Europe the harshness of the Treaty of Versailles (1919), by which the victorious Allies demanded huge reparations, finally destroyed the already fragile German and Austrian economies. In the summer of 1931, the Austrian Kreditanstalt defaulted. In September of that same year, the United Kingdom announced that it would no longer back its currency with gold reserves. It went "off the gold standard," and the pound fell 20 per cent in value overnight.

Foreign exchange was suddenly a political, not an economic matter. The old method of calculating international debts was suddenly jettisoned. For all intents and purposes, the foreign

exchange market was dead.

Companies that had borrowed in other countries reneged on their obligations. Foreign trade — export trade — was crippled.

For Canada this was much more serious than for most other countries. Its whole 1920s prosperity had been based on the export of minerals, wood pulp, wood products, and wheat. The natural resources had been mainly exported to the United States, the wheat to Europe. When the Smoot-Hawley Tariff Act passed in the U.S. Congress, a wall was put up against such imports. And Europe could no longer afford the wheat. It became completely impossible for Canadian firms to maintain their traditional trading patterns. In 1929, before these events, though Canada had less than one per cent of the world's population, it ranked sixth among the world's trading nations. In that year, exports were valued at \$1.4 billion. Four years later, in 1933, they were down to just a third of that, at \$475 million.

Over-production in the mining and pulp and paper industries had glutted markets even before the crash. The disappearance of markets altogether was a blow which ruined many well-established firms in these sectors.

But the trade and industrial sectors were relatively lucky compared with the agricultural one. Here markets had already been so oversupplied by the end of the 1920s that prices fell before the Wall Street crash. From a price of \$1.60 a bushel in the crop year 1929, wheat fell to 38 cents a bushel in 1932. This was below the cost of production. Farm families (and agriculture on the prairies was still a family affair) found themselves unable to pay their running costs, including the servicing of their loans on equipment and machinery.

Then came the drought: searing hot winds tore the topsoil off the farms and shrivelled whatever seeds did germinate. Yields dropped from 27 bushels an acre to three — hardly enough for seed, let alone sale. And the drought persisted for four terrible years, years which saw destitution previously unknown in Canada.

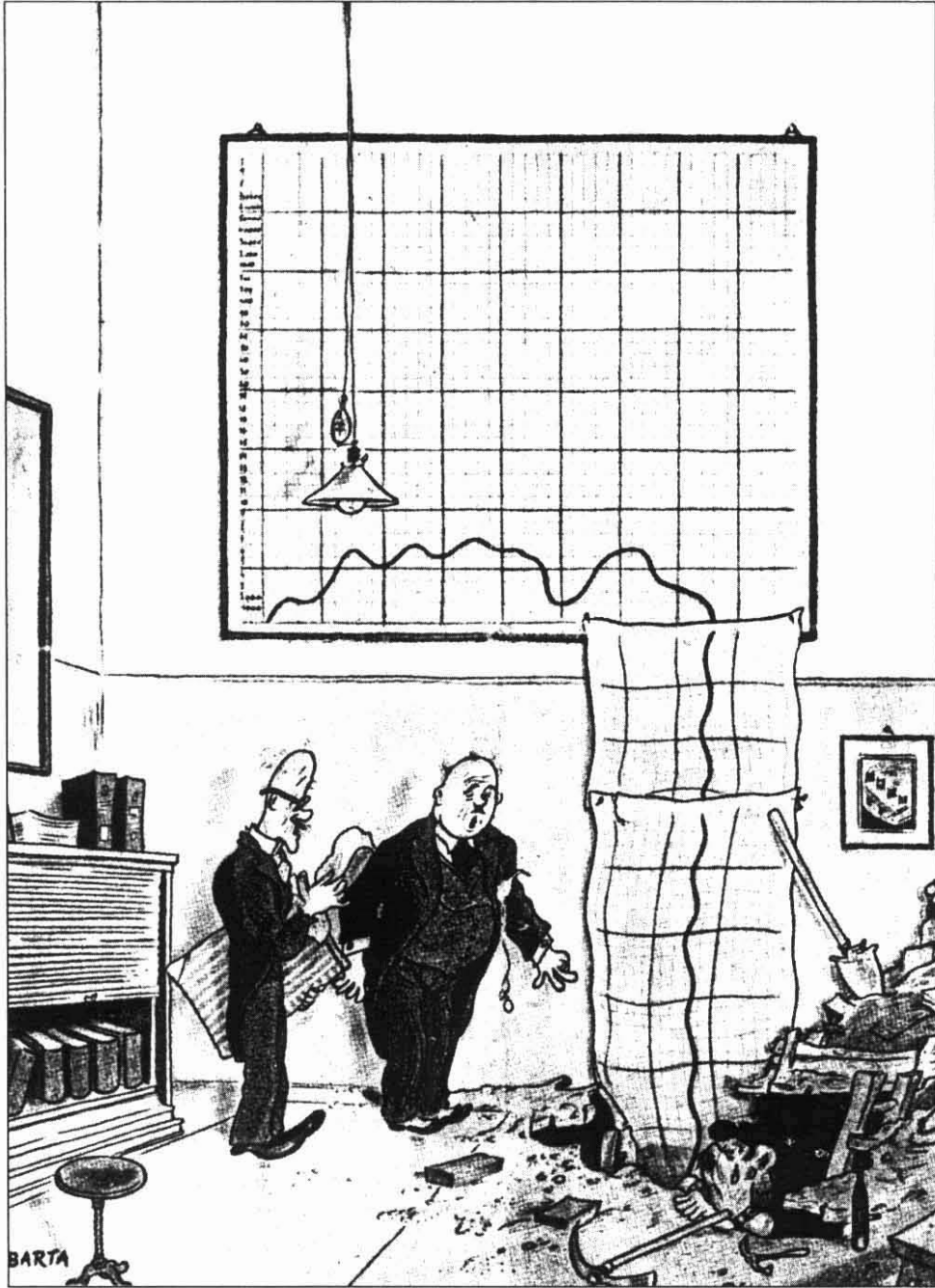
Farm income dropped from \$392 million in 1929 to \$66

million in 1933. Massey-Harris, supplier to the world as well as Canada, of the best and most advanced farm machinery, saw its stock fall from 67 1/2 to 8 1/2 in the same period. From 1933 to 1935 the Massey-Harris factories operated at about 10 per cent capacity. In the world at large, two out of every five factories were closed or idle. In Canada, one out of every six people in the labour market was unemployed, the total number having increased from 116,000 in 1929 to 826,000 in 1933.

In the face of such appalling conditions, what could the authorities do? What could banks do?

Well, what the Bank of Commerce did first was to curb expenditure. Right at the beginning of the period, in February 1931, a head-office memo asked managers "to see where every dollar was being expended," and requested a comparison of each year's operating costs with the figures for a year earlier. All bonuses and salary increases were discontinued. In small communities where there were two competitive banks, by agreement at the respective head offices, one would close. This rationalization was particularly felt on the Prairies. But big cities did not escape either: the Montreal Branch Clearing Department was eliminated in March 1931, all banks east of the Manitoba border clearing directly with Toronto after that date. Two years later, the Winnipeg Branch Clearing Department also closed and all banks in the Central West Region cleared through Toronto too. Even the former main Toronto branch of the Standard Bank of Canada (which had merged with the Commerce in 1928) was closed and the building itself sold.

As a result of these changes, a night shift was introduced at the main Toronto branch to process the late clearing. At its inception, this shift had a staff of four, two of whom worked from 6 p.m. to 2 a.m. and another two from 11:30 p.m. to 7:30 a.m. Cheques were collected from other Toronto banks in the early part of the evening and mail from the Post Office shortly after midnight. The new system called for the preliminary work-up of the larger items and branch cheque lists so that items for the main Toronto branch could be handed to the var-



*“Mr. Director, to show the last balance sheet,  
we shall have to dig down another three feet.”*

*—Das Leben.*

ious departments at the start of business each day; those for city branches were processed and ready for delivery by motorcycle at 8:15 a.m.

By March 1934, branch managers were instructed to prepare monthly business plans instead of the former half-yearly ones. Rigorous control of costs was demanded, to the point where at the Halifax branch inspection in 1932, the manager was told that in his apartment, "the position of the living room rug should be changed at times to avoid holes being worn in front of the settee."

Such austerity in Halifax was matched in Ontario. A bank employee who had been transferred from Beaverton to Toronto put in a claim for his car expenses. It was refused. He was given only \$2.25, the price of the railway fare and the maximum allowable for the journey. Even used stamps were collected at Head Office and sold to a dealer.

The same strictures applied to salaries. As from June 1, 1933, staff salaries over \$2,500 per annum were reduced by 10 per cent, those between \$1,000 and \$2,500 by seven and a half per cent, and those under \$1,000 by five per cent. The president and general manager got the biggest cut of all: a flat 15 per cent.

All these measures, which now seem draconian, at least kept people employed. Better to be employed on a reduced salary than be unemployed, though the claim that no one in the Bank family lost his or her job during the Depression is hard to prove when each annual report showed a devastating number of branches that had closed: 26 in 1931; 41 in 1932; 42 in 1933; 25 in 1934; 39 in 1935. From 1929 to 1939, the number of branches fell from over 700 to 570.

Directors' fees were also lowered by 15 per cent, and the number of directors reduced.

The Bank was still profitable, but the profits reduced each year. In 1931, the net profit before taxes was \$4,775,000. By reductions of almost \$500,000 in each of 1932 and 1933, and smaller but still significant drops in succeeding years, the net profit in 1936 had shrunk to under \$3 million.

The dividend paid had, for years, been 12 per cent. It now shrank to 10 per cent in 1933 and eight per cent in 1934. At the same time, the capital reserve fund had been reduced by one-third, from \$30 million to \$20 million, where it remained for the rest of the decade.

For all that, the Bank *was* profitable and the hundreds of thousands of people who had lost everything, especially those on the Prairies, were critical of institutions which, while collecting a few thousand dollars in defaulted loans, had reserves of \$20 million and a profit of \$3 to \$4 million, not to mention so-called "inner reserves," the amount of which was never disclosed to the public.

The general manager, Mr. S.H. Logan, thought it necessary to justify the Bank's *modus operandi* in his address to the Annual Meeting on December 21, 1934.

"Pressure continues," he said, "on the banks to accord lower rates of interest to their borrowing customers. As bearing on this question, the following table, which appeared in our October *Monthly Commercial Letter*, shows the effect upon the return to bank shareholders from their investment if discount rates were lowered either by one-half of one per cent, or by one per cent.

Average total loans of all banks in Canada (at the end of December, each year)		Total of Shareholders' Investment in all banks	\$268,000,000
1923-1932.....	\$ 1,296,540,444	Yield to Shareholders	6.3 per cent.
Average annual net profit available for dividends,			
1923-1932.....	\$ 17,064,957		
If interest rates on all loans were reduced by $\frac{1}{2}$ of 1 per cent, net profits would be reduced			
by .....	\$ 6,482,702		
to.....	\$ 10,582,255		3.9 per cent.

If interest rates on all loans were  
 reduced by 1 per cent, net profits  
 would be reduced by .. \$ 12,965,404  
 to..... \$ 4,099,553 1.5 per cent.

“It is evident from these figures that a reduction in the loan rate of 1 per cent would lower the profits of the banks’ shareholders to only 1 ½ per cent on their investment, which would mean, of course, that new capital could not be found to carry on any increased banking business.”

New capital was not a problem, however, and would not be for many years to come. Indeed, during the whole of the 1930s, the Bank was at its most liquid and always had money to lend. The trouble was to find borrowers. As a *Monthly Commercial Letter* stated in 1932:

“It is sometimes suggested that more credit should be granted industry but while the banks would welcome an increase in their loans, commercial and industrial firms would not accept the money at the moment if it were offered to them for they could not employ it to advantage. Given a stimulus to commodity prices bank loans would turn upwards [but these] prices are unfortunately determined by world conditions and there is not much that can be done to raise them.”

The rest of Canada did not see the money supply in the same terms as bankers. Since banks issued their own banknotes, why did they not print more of them? Simple: the amount of money in circulation was governed through the account of the Receiver General under the direction of the Minister of Finance. Also, because there was no money market at this time (it came later, after the creation of the Bank of Canada) banks could not afford to write off loans even when the chance of repayment was remote. The only answer was, through the Corporation Executive Department, to keep companies in business for as long as possible, as frugally as possible.

Commenting on this in his book, *Northern Enterprise*, Michael Bliss says:



“To their critics the bankers seemed obtuse, narrowly self-interested, or worse. The demand for easier money was clearly present and they were not meeting it, many felt. Others argued that demand obviously declined with interest rates, was inflated or deflated according to the decisions of the money-lenders. When bankers made interest-rate decisions, outsiders charged, they were always and invariably looking to their own advantage, not to their customers’ or to the public interest.”<sup>1</sup>

In the face of such criticism, sharpened by the fact that banks were still very profitable and paying 10 per cent dividends, Prime Minister R.B. Bennett appointed a Royal Commission to investigate whether a central bank should be established to put money supply and interest rates under social and political control. England had such a central bank; so did the United States.

When the Royal Commission reported in favour of a central bank, even though the Bank’s officers and directors had been unconvinced of its necessity, the president, Sir John Aird, greeted its establishment in 1934 with favourable, even laudatory comments:

“The legislation for the establishment of the Bank of Canada, although providing wider powers in some respects than seem necessary, was wisely framed to avoid as far as possible governmental interference for purely political purposes, as distinguished from the requisite and proper relationship which must subsist between a government and a central bank. Moreover, an earnest effort was made to provide capable management. The governor and Deputy Governor by character, technical training and practical experience in banking, possess eminent qualifications for their high and responsible positions. Our Bank, in common with the other commercial banks in Canada, will cordially co-operate with the Bank of Canada in maintaining the high standard of Canadian banking in its vitally important function of serving the credit needs of Canadian

<sup>1</sup>Michael Bliss: Northern Enterprise, p. 430

industry and commerce. There are of course dangers to be avoided in the administration of a central bank. The remarkable growth in the number of these institutions since the war has been partly due to the financial exigencies of the governments of those countries struggling with the burden of debts contracted during the war and the post-war period of reckless public extravagance, and seeing the means of meeting budget deficits by open or concealed inflation rather than by the politically more difficult method of increased taxation and rigid economy in public expenditures. Central banks have in some cases been the instruments through which this inflation has been effected. They have also been the agencies through which the exchange restrictions, which are so great an impediment to the restoration of international trade, have been put into effect. The Bank of Canada opens, then, at a time when there is an almost world-wide tendency on the part of governments to use such an institution as a medium of currency inflation to meet recurring budget deficits. The public of Canada will look with confidence to the chief executive officer of the new Bank to protect its administration from all attempted political interference on the part of governments which would weaken either our currency or our public credit, and to avoid hazardous commitments with foreign institutions or dangerous participation in extensive exchange stabilization operations which might result in a most serious impairment of the Bank's resources."

The establishment of the Bank of Canada gradually took the issuance of currency out of the private banks' hands. During the transition to a national currency, the chartered banks changed their own notes' size in the \$5, \$10 and \$20 denominations to match that of the Bank of Canada notes. This change rendered \$21,800,000 worth of old Bank of Commerce notes obsolete. With 631,250 sheets, four notes to a sheet, the shredding with the Bank's own equipment would have seemed endless. Fortunately, the Department of Finance lent a more efficient and larger machine which achieved the destruction more expeditiously.

Another tedious and time-consuming operation sprang from



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WEIGHING GOLD  
RESERVES



Bank of Canada Archives

SHREDDING BANK  
NOTES

the sale of the Bank's gold reserves to the Bank of Canada. This sale, legislated under the new Bank of Canada Act so as to found a national reserve, entailed the weighing and checking of gold bullion worth \$13,182,299.79. It took four days to do it.

As from January 1, 1936, the maximum right of note issue that a chartered bank had previously enjoyed would be cut each year for five successive years by five per cent of the amount of its paid-up capital with further reductions of 10 per cent per year for a similar period commencing January 1, 1941. By 1946, the chartered banks' notes could total no more than a quarter of the 1936 figure, and by 1950 they were all withdrawn. The Canadian Bank of Commerce had notes worth over \$25,000,000 in circulation in 1934.

With the gold gone, and the right to issue banknotes diminished, the Bank might have felt that its influence was being severely curtailed in the economy of the country. But the pangs of withdrawal were balanced to some degree by the fact that Mr. Sidney Turk, the manager of the main Toronto branch Foreign Exchange Department went to the Bank of Canada as its first chief of that bank's Foreign Exchange Division.

All through these turbulent and upsetting times the Bank did, however, continue to do business. Not throughout Canada: there was no business on the Prairies. Any wheat sold to the wheat pools in Saskatchewan that was bought with money loaned by the chartered banks was sold only when the loans had been guaranteed by the provincial government. Banking facilities in Churchill, Manitoba, were entirely withdrawn after the shipping season closed in 1931. The newly-built railway to Churchill was as good as closed.

In Newfoundland the situation was just as desperate. Though it was not then part of Canada, being still a British Crown Colony, yet four Canadian chartered banks provided banking facilities there on a par with those of the Canadian provinces. By 1933, even the government was in dire financial straits. With 25 per cent of its people unemployed and on subsistence welfare, the colony was able to raise money only on the

security of future customs revenues, and by giving a foreign firm a monopoly on the manufacture and sale of all petroleum products.

Commercial loans were eagerly sought by all banks. There still was business to be done, though, and a letter to all regional superintendents in March 1935 urged them to look for it. But in the current economic climate, the method of Head Office handling loan inquiries and investigations must, said the letter, be diplomatic and tactful. After all, the Depression could not go on forever and future relationships should always be kept in mind in these difficult times, especially with branch managers.

"We would therefore ask you to take pains to see that applications for credit, either tentative or final, resulting from this campaign are given the most careful and sympathetic consideration. Refusals will be necessary in some cases, and care should be taken to set out the reasons in such a way that they will be clearly understood at the other end. All criticism should be constructive and helpful, and in no case should it have a personal touch. In fact this applies to all correspondence from Head Office Departments and Superintendencies. The worst thing a bank can do to itself is to build up through captious and unduly critical correspondence a frame of mind on the part of the managers which tends to destroy their initiative and make them hesitant to submit business for consideration because of fear of criticism.

"It is necessary for us to remember that while we must take on only good business we cannot always expect perfect business. A sufficient volume of it does not exist. We must of course be continuously on the alert for fundamental weaknesses, and endeavour as far as possible to guide our customers in correcting weaknesses of a less serious character, but our efforts and criticism in the second direction at least must be constructive and not destructive. The effect of whatever is written when read at the other end should be carefully considered. It is not always what is said but the way in which it is said that matters.

"We would call your attention particularly to what is said in

the letter to the managers regarding small loans. Even a large institution such as ours cannot neglect or discourage the small man. A study of the figures of our loans and deposits plainly shows the large extent to which we depend upon the small depositor and the small borrower for our business and earnings."

Loans already in place were, through the efforts of the Corporation Executive Department cited earlier, assiduously encouraged to remain active and to pay their interest. But between 1931 and 1935, current loans dropped from \$253 million to \$165 million.

The productive loan business of the Bank was now, as the Depression proceeded, with governments. But not all governments were themselves good risks. By the end of 1934, the Saskatchewan government had a gross funded debt of \$121,000,000, a temporary debt of \$41,000,000 (mostly to the federal government), and contingent liabilities of \$5,600,000; only \$1,000,000 of a recent \$5,000,000 bond issue had been sold.

In October 1934, the chartered banks, through their local representatives in Regina, were asked by the Saskatchewan government to consider a further loan against treasury bills with the object of providing direct relief to its citizens in the form of clothing, food and fuel, during the ensuing six-month period. The total amount needed to bring this about was \$5,000,000, with a like amount required for other purposes including assistance to agriculture in the form of seed and feed loans. The federal government agreed to contribute a substantial amount and a further sum was to be provided by those urban centres that could pay their own way. Though not unsympathetic to the problem, the chartered banks were already fully extended in Saskatchewan and in any event were first obligated to provide loans for what might be considered normal needs, as far as their resources then permitted. In the circumstances, the request, they said, "could not, therefore, be entertained."

But the real banking conundrum was Alberta. Its growth as a province had been rapid since its incorporation in 1905. As a result, it had imported capital to finance that growth and had

built an infrastructure to accommodate continuing growth. But the Depression ended that growth. So both government and private borrowers found that by 1935, their accumulated debts far outstripped the capacity of either to repay.

In the doctrine of Social Credit, people found both the cause of their problems and a Utopian solution: increase credit, by printing money if necessary. Originally propounded in more complicated form by Major C.H. Douglas, the doctrine was simplified by William Aberhart, a fundamentalist who ran the Prophetic Bible Institute and was also a high-school principal. A powerful performer on radio (which dominated the public's ear as much as television was to do the eye and ear 50 years later), he founded a political party which swept to power in a landslide on August 22, 1935 with 56 of the 63 seats in the legislature, even though the popular vote was less than 50 per cent in favour.

Then the financial fun began.

As soon as the Social Credit government came to power, it had to suspend payment on provincial savings certificates of which, according to some estimates, \$1,300,000 had been withdrawn during that month, this from a total of \$10,244,000 outstanding as at June 30. Withdrawals were not confined to provincial savings certificates, and by the end of August the Bank's own branches in Alberta had lost \$622,000 of their deposits by transfer to places outside the province, although \$519,000 went to branches of the Bank elsewhere.

The regional superintendent reported from Calgary to Head Office:

"Despite the unsettled times, reports indicate that wholesale and retail trade continues to move in considerable volume. The new Provincial Government is settling down to business but we have heard reports from several prominent businessmen who have visited Edmonton for information that the newly appointed Cabinet members are totally at sea in their new duties and that while Mr. Aberhart might have the ability to run a school and a Sunday school they question whether he has the kind of ability

necessary to organize a Government. Undoubtedly the great problem which he will have to face will come from his own ranks and from his many followers who are already showing signs of impatience because basic dividends are not yet available."

In the fall of 1935, more than 6,000 jobless were still registered with the provincial government unemployment service, and there were only 11 jobs available. Fortunately, the 1935 wheat crop in Alberta compared favourably with that of the previous year and the province was therefore spared the fate of other sections of the West which reported the poorest crops ever known.

The Bank's own contribution to this uncertain situation was in giving authority during its 1935-36 collection campaign to managers in the Alberta Region to effect a compromise in 726 accounts; this involved a write-off of \$350,000 standing on the books of these branches after allowing for the current year's appropriations, and uncapitalized interest aggregated a figure exceeding \$1,112,000. In all, collections for only \$33,000 were made, covering 161 accounts with a further \$6,300 promised.

In January 1936, Mr. John Hargrave, technical adviser to the Social Credit planning committee of the Aberhart government, resigned, thereby causing some doubts as to the future of Alberta's new administration. Further misgivings arose when on April 1, the province defaulted on its bonds then due. On May 30, an order-in-council was passed empowering the provincial treasurer to pay, in full settlement, only 50 per cent of the interest on all past due and outstanding obligations. Despite its shaky finances, the government went ahead and distributed, during August, forms for the registration of persons entitled to Alberta credit in anticipation of the third and final reading of a bill called the Alberta Credit House Act that would permit the first distribution of a dividend early in November. However, it transpired that few citizens of Alberta were ready to commit themselves to an undertaking that required them to exchange their goods for Alberta credit, and the scheme foundered.



In the meantime, a "prosperity certificate" scheme had been started under which, it was hoped, certificates would circulate as money. The plan called for the attachment, by the holder, of a one-cent stamp each week to each dollar certificate that was issued; if implemented at the end of a two-year period, stamps to the value of \$1.04 would have been affixed, thus enabling the treasury to redeem each certificate at no cost to the province. By the end of January 1937, certificates to the value of \$325,644 were in circulation and stamps worth \$1,958 had been sold. The public was not very enthusiastic, the idea never really caught on, and so that project also came to naught.

The next step was the enactment of the Alberta Social Credit Act passed in April 1937. This envisaged that goods would be sold at a discount and the retailer reimbursed with "Alberta Credit;" under this plan there were to be "consumers' dividends" and "debt-free" credit to producers. The scheme, administered by a "Provincial Credit Commission" was subject to the powers of a "Social Credit Board." This was too much even for Alberta's provincial treasurer, Mr. Charles Cockroft, who then resigned too.

During the summer of 1937, rumours were heard that the government contemplated impounding savings deposits and compelling depositors to accept "Alberta credit" in exchange. Inevitably there was a run on the banks, and a further withdrawal of deposits; from May 1 to August 31, \$2,700,000 in a total of 916 accounts was removed from the Bank's custody in Alberta, though once again a substantial amount, about \$1,000,000, was retained by the Bank in transfers to its branches in other provinces.

However, these runs were sufficiently worrying to initiate arrangements with the local agency of the Bank of Canada for the Calgary branch to withdraw up to \$1,000,000 per day in Bank of Canada notes as might be necessary, and to bring forward the suggestion by the regional superintendent that the Alberta business of the Bank might temporarily be transferred to Toronto; the latter proposal was rejected as being too impracticable. Not know-

ing where developments might lead, however, the Bank arranged for riot and civil commotion insurance to the extent of \$1,000,000 for a period of one year covering all buildings, furniture, and fixtures owned by, or leased to it in the province of Alberta. Fortunately, since the Alberta credit scheme also eventually fell through, it was not needed and it was not renewed.

The next piece of legislation enacted by the Alberta government during Aberhart's term of office that affected the banks was the Postponement of Debts Act. Passed on August 24, 1937, it imposed a six-month moratorium on all debts owing to corporations. In this month also, a bill known as the Credit of Alberta Monetization Act was introduced: it provided that any bank continuing to operate in Alberta would need to secure a licence from the Social Credit Commission, a condition being that the Social Credit Board would be permitted to appoint a sufficient number of directors to control the policy of the bank. Such an arrangement was quite unconstitutional; Alberta's attorney general was one of the first to admit it, and he consequently resigned. At the same time, Aberhart brought down another bill known as the Bank Employees Civil Rights Act which in effect barred the banks from "the enforcement of any claim either in law or equity" until they had secured licences from the Social Credit Commission. This was more than enough for the federal government, which vetoed the Alberta legislation.

Gross earnings of all banks in the province of Alberta for the year 1937 amounted to \$4,462,000 as against operating expenses of \$4,509,000. But \$1,371,000 was written off in bad debts resulting in a total net loss of \$1,418,000.<sup>2</sup> Of these totals the Bank itself had a revenue of \$868,000 against expenditures and write-offs of \$1,293,000 to produce a net loss of \$424,000. The regional superintendent had recommended an appropriation of \$334,000 for Alberta in that business year; Head Office had

<sup>2</sup> It has been claimed that over a 12-year period (1926-37) the chartered banks in Alberta collectively showed a total deficit of \$9,700,000 from operations in that province.

thought that \$250,000 would be adequate. The acting regional superintendent wrote thus to Head Office in discussions aimed at a sensible policy on debt recovery:

“The records of debts in the drought area, such as you have, do not convey to you the effect that six years’ privation and want have had on men whose moral character was formerly good. Many have been fed on promises of emancipation and now have no intention of paying any portion of the debt voluntarily. By going through bankruptcy young men in this plight would undoubtedly be enabled to start afresh, free from debt and the size of their debts would not be relevant in the proceedings. As previously stated we do not propose to settle any debts for less than the amount we consider ultimately recoverable but we feel that it is inadvisable to perpetuate ill feeling against the banks by futile efforts made yearly to collect from earners in the destitute class and it is our opinion that we can make a virtue out of a necessity by letting these people know their debts are settled in full by payment of a small amount which would otherwise not be recoverable.”

But it was neither the compromising of debt by the banks nor the theories of Social Credit that pulled Alberta out of insolvency. It was the discovery, in 1937, of two new oil wells in the Turner Valley: Foundation, and Royalist Sterling Pacific No. 3. Oil production would bring wealth and royalties that did the trick much more effectively.

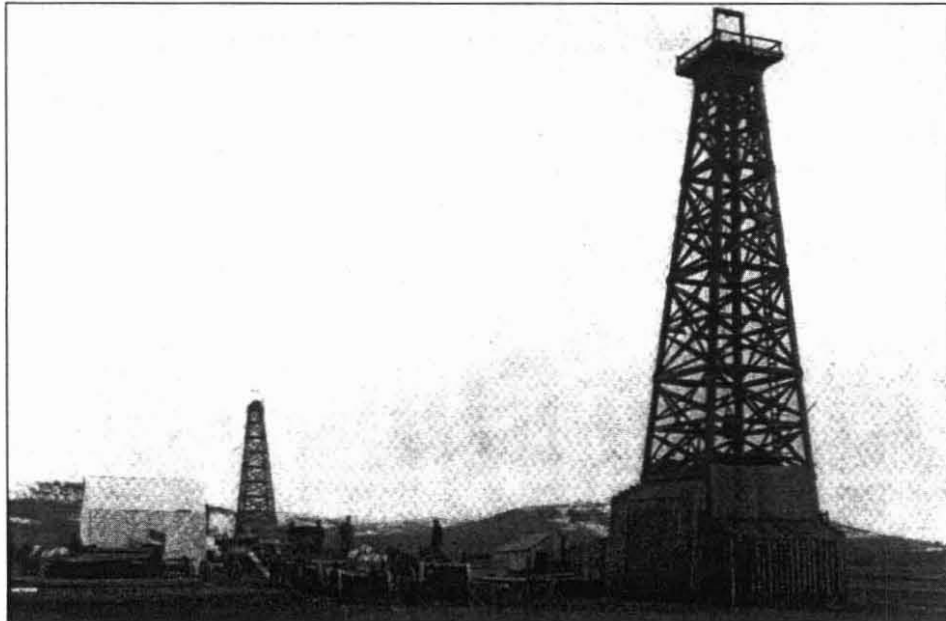
Indeed, natural resources were the one encouraging thing throughout the Depression. At its very depth, in December 1933, Mr. S.H. Logan, general manager of the Bank, reported that:

“Mining in this country has held its ground better than any other major industry. In the 1929-32 period it registered a decline of about 25 per cent — mainly because of the severe depression in coal-mining — as compared with one of nearly 40 per cent in general business. But it may not be widely known that the mining industry as a whole has now become our second largest primary producer, ranking next to agriculture. One salient feature of the past year is not merely the continued

progress in gold mining, with an estimated production of \$61,000,000 at \$20.67 per ounce, or \$85,000,000 at the average market price realized, but also the fresh impetus given to the base metal and asbestos industries. Thus, the production of nickel in 1933 was nearly three times that of 1932, while that of copper increased by 22 per cent, that of lead by 5 per cent, that of zinc by 16 per cent, and that of asbestos by 21 per cent. In comparison with the world production of these materials, we find that the Canadian records were more impressive in respect of copper and lead, but less favourable in the case of zinc and asbestos. The total value of mineral production in Canada for the past ten years has aggregated nearly \$2,400,000,000, an enormous contribution to Canada's national income."

He was even more positive in his remarks, and more specific a year later:

"Mining and metallurgy have been sources of great and increasing national strength. The customary official estimate of the value of total mineral production for 1934, \$278,000,000, is



TURNER VALLEY

impressive in itself, but I should like to quote a few facts which furnish a more adequate view of the magnitude of mining and its associated form of activity, metallurgy, and the imposing places they now occupy in our national life. Over ten thousand mines, quarries, petroleum wells, mills, smelters, refineries, etc., capitalized at about 800 million dollars, are now in operation with a labour force, apart from that engaged in the development of new properties, of more than sixty thousand people, drawing at least 70 million dollars yearly in wages and salaries."

During this whole 1930s period, the man at the sharp end of the battle was the local manager. He (and there were no she's in those days) was a presence in the community together with the lawyer and clergyman. (There would be more of the latter than the former in smaller communities). It is an accepted principle of banking that no loan is made without the stated and serious intention of getting it back with interest. The instrument for getting it back was the man who made it in the first place — the branch manager. But on the Prairies in the '30s, so many loans were in default or in trouble that the task of running the branch, making new loans wherever possible, and looking after the old, now non-productive, ones, was so difficult that the superintendent in Alberta proposed a change in method. With 3,000 loans classed as unsatisfactory, he suggested, in a memo of November 1933, a rationalization to make things both easier and, hopefully, more efficient.

"With over half our loans either unsatisfactory or in the troublesome class the routine burden on the branches and in this Department has increased inordinately and our staff has now reached the point where it will have to be replenished if further depletion takes place unless more economical methods of conducting our business are instituted.

"As a first step towards bringing about a reduction in routine we suggest that unsatisfactory accounts be supervised from one complete record, that they not be reported in any other returns and correspondence about them be practically eliminated. To place the suggestion before you we have had the Crossfield

manager set up his unsatisfactory accounts on forms we have prepared. There are three forms for the original set-up of each account and these provide a means of supervising the accounts thoroughly through the medium of subsequent progress reports and occasional visits to the branches where the volume of unsatisfactory accounts is large.

"In the proposed new system we do not call for any information which is not already submitted. The routine requirements seem to be as complete, simple and orderly as it is possible to make them and duplication is entirely avoided. We should like to bring the new systems into effect on December 1, next."

His eminently sensible suggestion was approved by Head Office and spread almost immediately to other regions. A special section was set up in Moose Jaw to collect the bad debts of closed branches.

But it was tough going for whatever Bank employee had to do it. A report from one special officer in such a collections set-up highlights the difficulties:

"I well remember one Fall day driving to the Stony Beach district [Saskatchewan], with the intention of interviewing one of our debtors there. En route I picked up the manager of the one-man branch then in operation to guide us in our search for the obligant. The amount of the debt was about \$25 which, in those days, to the poor farmer was a large amount of money. At the outset of the interview the debtor flatly stated he could not pay anything as he had suffered a complete crop failure and was dependent for his food and clothing on Government assistance. However, after some negotiation he finally disclosed that he had a few turkeys which he was fattening on grasshoppers for Thanksgiving and that he would be prepared to turn over twelve turkeys in exchange for his note, on the understanding that he would not be responsible for the killing and plucking of the birds. Without further delay we accepted his offer on the basis that we could make use of his barn to do our own butchering and cleaning. With some reluctance and considerable ineptitude the two loyal servants of the Bank proceeded with the task in

hand which took some two or three hours to complete and by that time they were completely covered with blood and feathers. The problem then arose to find a market for the turkeys but a sufficient number of the personnel of the Moose Jaw branch were sufficiently interested to realize \$12."

The heartbreak of it all is even more graphically indicated by a letter to Head Office from a debtor who had been pursued to look after his note for \$638:

"We are all your customers, we would like to get an advice from you'se. How could we pay money which we have borrowed from you'se. In these hard times and very poor prices at 27 cents per bushel of wheat. For it costs us to raise 70 cents to 80 cents per bushel. First we have got the relief and loans ahead of the money we have to pay your banks. The Government tries to help us out in every way to be fair and square. The Machinery Implements tries to help us out, to get his own benefit out, and to be fair and square with the debtor and to try and form a new system with the farmer. He gives us 77 cents per bushel of wheat to get his own benefit out. But you with your system of banks don't try to help us out, to show something. Just keep on going high Interest and Compound Interests. And we don't know how its going to go on that way, so how can we pay it. If you don't change the system because Government Relief Loans and our expenses in these days worth us more than our land does. Please give us an advice for this being wanted."

These were desperate people, and there were thousands, hundreds of thousands of other desperate, hopeless people spread across Canada in those trying, awful years. For some, desperation gave way to criminal intent, and here again the local manager was the man at the interface. Wherever the branch was — whether isolated on the Prairies or in a built-up metropolitan area — the violence occurred.

Sometimes it was met by violence. Take the account, for example, of an incident at the 8th Avenue West branch in Calgary on January 3, 1933. When a man entered at lunchtime, pointed a revolver at the head of the manager and demanded



EXTRACT FROM THE MINUTES OF  
THE PROCEEDINGS OF THE  
BOARD OF DIRECTORS OF THE  
CANADIAN BANK OF COMMERCE  
AT A MEETING HELD ON 20 JAN  
1933.



*Moved by: Mr. Arthur White  
Seconded by: Mr. J. P. Bickell*

*and Resolved: THAT-*

*the* thanks of the Board be-  
tendered to Harry Ford Chritchley  
for the courage and presence of  
mind displayed in the pursuit  
and capture of an armed bandit  
who on 3<sup>rd</sup> January 1933 robbed  
the Eighth Avenue West Calgary,  
branch.

PRESENTATION FOR  
BRAVERY TO  
H.F. CRITCHLEY.



money, the ledger-keeper, H.F. Critchley, picked up a large potted fern and threw it at him instead. As the astonished and, no doubt, hurting robber ran off, Critchley pursued him, tackled him and kept him until others called the police. The robber went to jail; Critchley received a gold watch and an "illuminated resolution" of the board of directors.

Guns often were used, both by the robbers and the bank staff.

At Ilderton, Ontario, on March 29, 1933, a car drew up in front of the branch and two men dashed into the manager's office shouting "put 'em up." However, the office was empty, so they ran round to the back of the teller's cage waving their guns. On hearing their shout, Mr. L.H. Denning, the teller, seized his revolver and, whirling around, ordered the bandits to drop their weapons. One of the men then fired at Mr. H.M. Porteous, the manager, who was standing nearby, shot him down, and fired at him again while he lay on the ground. The second bandit had meanwhile engaged Denning through the grille of the cage, and Denning was returning the shots. This man then dropped to his knees and continued firing until the first robber managed to slug Denning who, by this time, had emptied his revolver. Despite his wound, Denning ran to the vault, seized another weapon, and kept up the battle from behind the shelter of the vault doors. The bandits decided to beat a retreat and escaped through the front door. They got away in their waiting car, stolen earlier in London. Luckily, if not miraculously, Denning had been only slightly wounded by a ricocheting bullet, but the condition of Porteous remained serious for some time. One of the bullets had entered his thigh and the other his right side, close to his heart.

Not all bank personnel were as lucky as Porteous. In January 1936, three armed bandits entered the branch on Powell Street, Vancouver and, without warning, shot the teller, William H. Hobbs, before he even had a chance to raise his hands. A second robber fired at the manager, Thomas Winsby, and then ordered the ledger-keeper to open the exit door. Grabbing the available

cash — just over \$1,000 — they made their escape in a stolen car driven by a fourth man. Hobbs died the next day, but Winsby recovered. The men, as often happened in those days before air transport, were caught soon after. Two were hanged, the others sent to penitentiary for long terms.

Those less desperate, but also looking for money, forced banks into the whole question of making personal loans. Up to 1936 — as remarkable as it seems almost 60 years later — no bank had ever made a personal loan in Canada (or financed a mortgage, for that matter). Banking was a corporate and business activity on the lending side; a deposit and service institution for individuals. This was not the case in the United States, however, and so the Bank's officers in New York were instructed by Head Office to investigate how such loans worked, what the risks were, and the potential return. Nothing came of this, but a remarkable address on the whole theory of the banking system by General Manager, Mr. S.H. Logan, at the Annual Meeting in January 1936 provoked thought among a number of those present. One of them was Mr. W.M. Langston, the assistant manager of the Market branch in Toronto.

Mr. Langston envisaged the making of small loans to wage-earners, salaried men, and others in receipt of a regular income, which would be repayable over a year by monthly deposits in a savings account on which interest would be allowed. These suggestions were warmly received, as not only was the Bank still having difficulty putting its surplus funds to work at adequate rates, but a campaign was currently running in Toronto newspapers against "loan sharks." This campaign was directed primarily at "pay-day" lenders, i.e. small loan offices that lent \$5, \$10, or \$20 from pay to pay at a flat rate which, if a loan were not paid off and had to be renewed each subsequent pay day, offered returns of over 100 per cent interest in the course of a year. The campaign was also directed against many of the finance companies whose minimum rates at the time ranged from 36 to 40 per cent per annum.

Management also welcomed the opportunity to meet the

criticism made for a number of years that, while small loans were freely made to businessmen and wage-earners having adequate security, others in need of small loans but with no collateral except earning power found it difficult, if not impossible, to obtain accommodation. The Bank believed that by making small loans to this class of borrower it could earn considerable goodwill and collateral advantages as well as a profit.

A preliminary announcement was therefore made in the early months of 1936 to the effect that the Bank had decided to enter the small loan field in Canada. It was hailed by the press and public with an enthusiasm that seems hard to appreciate today. Strange to say, the only note of scepticism came from a few of the Bank's managers who were shocked and disturbed by the innovation. Some of these die-hards would not even take an application for a personal loan for some time and predicted an early doom for the whole scheme. However, their lack of enthusiasm was short-lived since the plan was an unqualified success right from the start.

The terms of the scheme as first formulated permitted loans to be made for sums between \$60 and \$1,000 to wage-earners and to salaried and professional people without collateral security but with a guarantee by two responsible citizens and by the borrower's husband or wife if the borrower was married. The essence of the contract between the Bank and the borrower was that the amount of the loan remained constant for the full term and that the borrower agreed to provide repayment at the end of that term by having deposited equal monthly amounts in a special savings account on which interest was paid. The loans themselves carried interest at six per cent for one year, a rate imposed by the Bank Act. But there was an additional charge to the borrower for investigation, depending on the size of the loan — and the interest value of the deposit account made the actual return to the Bank nearer 10 per cent. Protection against loss through the death of the borrower was provided by life insurance placed by the Bank in the form of a group policy with the Canada Life Assurance Company. While there were to be some changes, involving the

**Loan Plan For Salaried Men  
Created By Bank Is Success  
In Seventy Ontario Branches**

Bureau Staff Writer Sees Bank of Commerce Plan in  
Operation Loans Being Made For Doctors' Bills, Taxes,  
Consolidating Small Debts—How It Works

**Bank Announces New  
Personal Loan Plan  
For Employed People**

Service Provides Borrowing Facilities With Repay-  
ment on Monthly Basis and Insurance Against  
Premature Death—Requirements Are Broad

**Personal Loans**

Bank of Commerce Now Operates Nation-Wide  
Loan Business—Home Modernization Aided by  
New Plan—Six Central Offices

**BANK SETS UP PERSONAL LOAN  
SERVICE DEPARTMENT AT TRAIL  
BRANCH FOR CITY RESIDENTS**

Loans to Wage Earners, Salaried and Professional Men  
and Women. One-Year Loans, Repaid by Monthly

THE PRESS GREETES INDIVIDUAL LOANS.

waiving of guarantees to responsible borrowers, the raising of the maximum amount, and the variation of repayments beyond a 12-month period, the basic plan was to stand for many years.

The general experience with all loans made to individuals was that, in the borrower's own interests, regular amounts on a budget basis should be set aside from income. This was one of the reasons, if not the main reason, why the personal loan plan proved so successful and operated with an almost negligible loss record. From the start, personal loan applications were channelled through a regional department where the officers delegated to handle them soon acquired experience in a specialized field that, for the most part, consisted of knowing the habits and frailties of people borrowing in this manner. Its officers also became expert in deciding what were suitable loans and in collecting those that became delinquent. The carrying of these loans at the regional offices, of course, took whatever risk there might be off the shoulders of the branch. As an incentive, the branches were credited each month with a commission of two per cent of the face value of all loans approved.

By the end of November, only six months after the scheme started, 13,000 loans had been made across Canada for a total of approximately \$2 million. The plan was off to a good start. Thus was established a new service, if not a new era, in Canadian banking.

Maybe it was not in itself a new era. But certainly, as the decade advanced, the old era was passing away. On January 12, 1937, the president, Sir John Aird, gave notice to the Annual Meeting that he would vacate the presidency. His retirement, at the age of 81, terminated an active banking career which had begun in 1878. His exceptional energy and his great capacity for work were perhaps the keys to his rapid promotion: manager at Seaforth by 1888; assistant manager at the main Toronto branch by 1890; manager at Winnipeg by 1899; first superintendent of Central Western branches by 1908; assistant general manager at Head Office by 1911; general manager by 1915. He had headed the Royal Commission whose report brought about the found-

ing of the Canadian Radio Broadcasting Company, a Crown corporation that was the forerunner of the CBC. His long association with the Bank continued after his retirement as president, in a directorship which he held until his death in November 1938.

The new president was Mr. S.H. Logan, the man who had held the general manager's position for 12 years — longer than anyone but Sir Edmund Walker. Mr. A.E. Arscott was to be appointed general manager in Mr. Logan's place. Other appointments followed, one of the most significant for the Bank in the future being that of Mr. N.J. McKinnon, who was made inspector at Head Office.

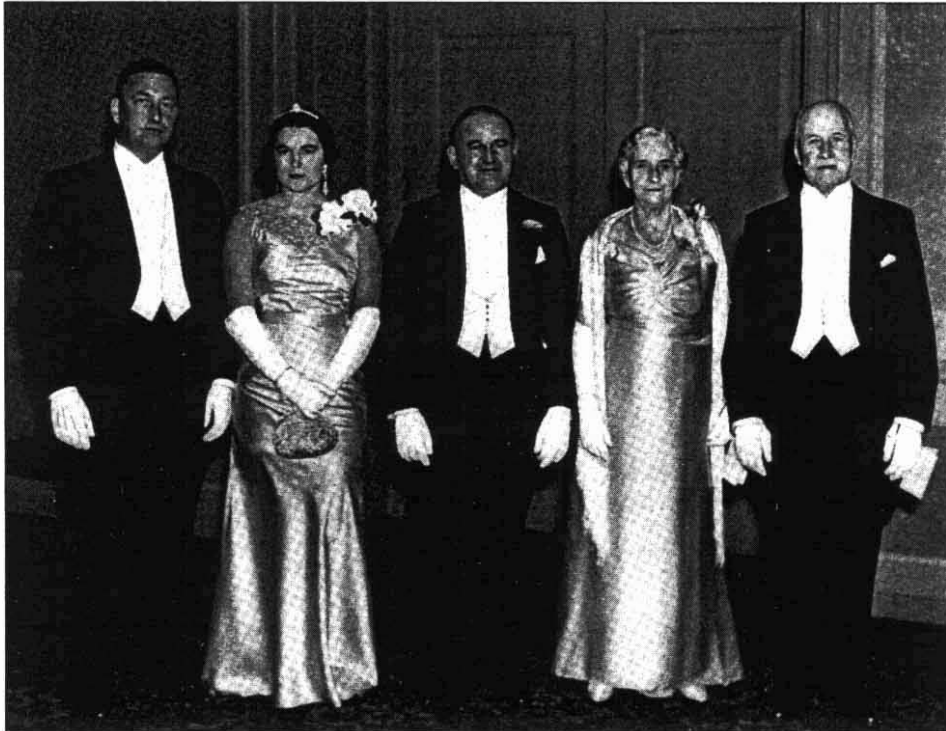
Two years later, Sir Joseph Flavelle retired from the board. He had served on the board since June 1896 and as its chairman since 1924. Sir Thomas White was elected to succeed him.

Flavelle is one of the key figures in the commercial and financial history of Canada. He began his career in the 1880s as the proprietor of a feed and flour store in Peterborough. In exchange for his flour, he would accept dressed hogs from farmers during the winter. His people would cut up, salt, and ship the hogs to the William Davies Company in Toronto.

In 1891 Davies sought out Flavelle (now in Toronto with his own produce company) to take over his company's expanding business. Flavelle reorganized the Davies Company, expanded into cattle with the Harris Abattoir Company, and with other acquisitions finally established Canada Packers.

At the same time, he became one-third owner of the fledgling Robert Simpson Company, a share which he later parlayed into a 66  $\frac{2}{3}$ % interest.

An entrepreneur, a shrewd dealmaker, Flavelle had been involved with the Bank longer than any non-staff person. In addition to his long connection with the Bank, he had been active in the affairs of the National Trust Company for 39 years, of the William Davies Company for 28 years, of the Robert Simpson Company for 31 years, and of the Toronto General Hospital for 36 years; he had been a governor of the University of Toronto for



RECEIVING THE GUESTS AT THE ATHLETIC ASSOCIATION BALL, 1937

*(left to right):*

Mr. A. E. Arscott, Mrs. Logan, Mr. S. H. Logan, Lady Aird, Sir John Aird.

32 years, of St. Andrew's College for 27 years, of the West China Union University for 26 years, and of the Ontario Research Foundation for 10 years — a truly remarkable record.

With Flavelle and Aird gone, it was Mr. Logan who addressed the Annual Meeting on December 13, 1938. He spoke from strength: profits now stood before tax at well over \$4 million; assets amounted to \$665 million. Current loans had increased by \$14 million. The new personal loan department had made over 100,000 loans in two years for a total of over \$15 million. It certainly looked as though the Depression was fading.

But it was also a new era. He pointed out that "within the last decade Canada has shifted from a predominantly agricultural economy to one based on a combination of agriculture, mining and manufacturing....Mining has led the way in the transformation of the Canadian economy."

He pointed out that the mining industry had disbursed over \$1 billion dollars in wages in the period 1928 to 1938, and the same amount in the purchases of materials and services.

The Depression was over. It was summed up nicely by Mr. E. Holt Gurney in seconding a vote of thanks to the directors:

"This board is responsible for the discharge of two duties of first-class importance, which are to me incompatible. In the first place, they must see that complicated services, including loans, are rendered to thousands of customers of the Bank from the Yukon to Yarmouth, and elsewhere, and at the same time they are also responsible for the fact that, at the end of the year, there will be quite a lot of the Bank left. During the period of nine exceedingly difficult years, the record of their performance is before us. The services have been rendered, the shareholders have had a fair return, and there is just a little bit more of the Bank left than there was at the beginning of these years."

The proof of all this good news came in the December 1937 pay-packets. For the first time in eight years, there was a Christmas bonus to every member of staff.



# THE ALBERTA PROSPERITY CERTIFICATES

by Wayne L. Jacobs

## **FOREWORD**

When Marco Polo reported to his fellow Venetians that the Great Khan of China had more wealth than the whole of the rest of the world combined, he was disbelieved and ridiculed. Polo was correct, though – the emperor of China was using paper money and, so long as faith in its redemption and worth is maintained, its issue can be potentially infinite. In contrast, Europe at this time was slogging along with coins alone: for the most part, small silver pieces plus a leavening of gold. So long as her total wealth was computed by the amount of noble metals available, her circulation of coin was limited to that extent. Over the centuries, the West came to experiment with paper “money” of various sorts and found that along with its benefits of virtually unlimited issue came its shortcoming of being, when all was said and done, intrinsically worthless. The history of paper money is littered with instances of erosion and total collapse.

Ever since paper money appeared in quantity, man has pondered two points about it: how to accrue the maximum amount of wealth to himself was one and the other was a scheme or schemes by which paper currency could best benefit the greatest number of people – usually those at the bottom end of the economic scale. In keeping with the latter, we saw

the Labour Notes of Owen in England and innumerable “self-help” notes on practically every occasion of depression and “hard times.”

The Great Depression of the 1930s was certainly one such time and, predictably, monetary panaceas blossomed all over the world – including the Alberta prairies of Canada.

The particular experiment that has become widely known as the Alberta Prosperity Certificates was also known in its time as “funny money,” “Bible Bills” and a host of other epithets, mostly pejorative. More or less disowned by its author, the Certificate affair was adopted on faulty assumptions, established half-heartedly and disappeared quietly into the quicksands of legality and indifference. A part of Premier Aberhart’s program of the “National Dividend,” he was increasingly pressed to actions that his opponents believed smacked of fascism; and, indeed, we find that some aspects probably do violate normal constitutional guarantees. That said, we must note that Aberhart was not alone among the provinces – or even the federal government – in laws and “programs” that slipped over the constitutional line as we today understand it. These were extraordinary times and, for better or worse, Aberhart’s schemes were their equal. His greatest liability was that he wandered into the realm of money and

finance; this was to ensure the quashing of these programs.

### **BACKGROUND**

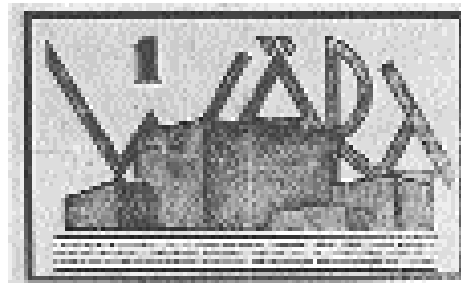
The forerunner of Aberhart's Prosperity Certificates would have to be found in the works of Silvio Gessell. Gessell was an expatriate German running a store in Argentina when the depression of the 1890s hit that country. The Argentinian banking and economic system was unequal to the task with the result to Gessell that he went broke. Musing over his misfortune and finding it ludicrous that in the midst of Argentina's abundant natural resources, he should have experienced collapse, Gessell came to propound a most unusual economic theory. Most extraordinary of all is the fact that, with any amount of consideration given, it could not possibly work and yet it was pushed for decades by presumably otherwise reasonably intelligent people. Perhaps its appeal lay in blaming banks and other undefined economic forces for the problem, but – right or not – the solution was hardly that of Gessell.

In brief, Gessell believed that while goods deteriorated, money did not, so the solution was to make sure that money itself wore out as quickly as the goods. How he accounted for the everyday speculation in commodities that had been going on for centuries, he never said. Instead, it was Gessell's suggestion that the actual money should be issued in such a way as to lose a set percentage of its value every specified period. Gessell postulated 10% per year to be about right so his scheme was this: each year, bank notes would be printed of a given colour and pass for the full amount; but in the following year, the colour would be changed and the notes of Year One would then be worth only 90% face value. This would continue each year with successive colour changes and corresponding value drops of 10% per year for 10 years at which time Year One notes would be

worthless and new ones could be printed in the same colour at full face the next year. Thus, the cycle would continue. This particular scheme was never adopted.

However, the idea of deteriorating currency had some merit for a few economic thinkers, but not as an end in itself, but rather as an accelerant to note circulation. Here, again, intellectual quicksand was being trod upon: it was these people's contention that bank notes in the bank were not doing any work – that they just lay there – and, conversely, if they were forced into rapid circulation, their desired destiny would be fulfilled. The fallacy here, of course, is the "legend of resting money," banks tend to keep a minimum of liquid reserves on hand and, far from resting, money is expected to be in constant "labour" as loans and investments with the "desiderata" of considerable returns.

But the appeal of currency "at speed" was alluring and so a shift was made from a deteriorating currency to one that kept its value through resuscitation – "musical chairs" notes at full value except for the holders at specified times – and they had to



– *Disappearing Money* –  
An example of the currency advocated by Gessell and used voluntarily in a few small German-speaking towns.

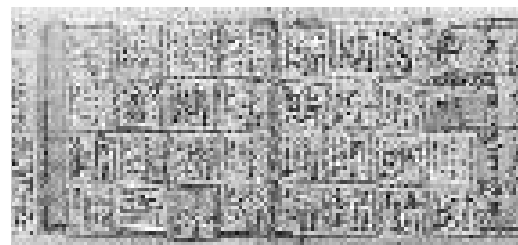
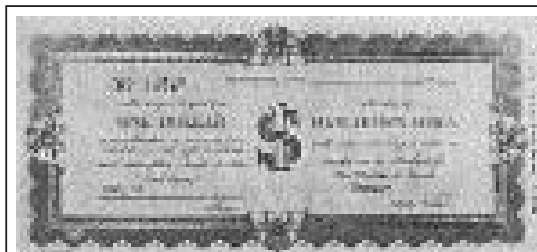
pay. In an attempt to avoid what was an actual tax on the note itself, holders would pass them on as quickly as possible and as the “tax time” drew near, there would, indeed, tend to be a “speeding currency.” The Alberta Prosperity Certificates came to be the example “par excellence.”

Gessell’s theories came to be incorporated in the teachings of an Austro-Germanic group calling themselves the “Freiland-Freigeld Bund.” During the 1920s, a very few notes were circulated among members of the Bund that were backed in full by Reichmarks, but which required the addition of a monthly stamp equal in value to 1% of the note’s face value in order to retain its full face. These notes circulated in a very hit-and-miss fashion for about six years – and then the depression struck.

Hard times gave the Bund an opportunity to try out their experiment on a large scale. Schwanenkirchen, a town of about 500 in Bavaria, existed almost solely on a mine which had been closed in 1929. In 1931, the owner succeeded in obtaining a loan of 40,000 Reichmarks for its re-opening and, at the urging of the Bund, he proposed that the miners be paid in a special stamped currency called “Wära” (roughly meaning “commodity” or “stock”) to ensure rapid circulation and discouragement of hoarding. It was never explained why miners unemployed for two years would be considered prime candidates for saving let alone hoarding. In any case, the 40,000 RM were used as backing for an equal amount of “Wära” notes and shopkeepers in Schwanenkirchen accepted them “voluntarily” (or perhaps because the miners had no other kind of money to offer). Most wholesalers and merchants outside of town refused to accept them although a few thousand stores scattered across Germany, members of the Bund, did. The note illustrated shows that a “Wära” was equal to a Reichsmark and that many did, in fact, have their 1% tax

paid on time. Great benefits were ascribed to the notes, but surely standard notes would have circulated equally well. In any case, these notes trod on federal jurisdictional ground and were forbidden to pass by an emergency law of November, 1931.

Meanwhile a similar scheme was tried in nearby Austria where Mayor Unterguggenberger of Worgl organized a system of public works to take some 1500 inhabitants off the dole. As the scheme unfolded, it took the form of 32,000 schillings of Wära notes, backed in part by a fund in the local savings bank drawing 6% interest. Local merchants had to accept the notes and, seeing that two other prime acceptors were the local savings bank and the municipal tax office, savings went up and the town’s tax arrears dropped from 118,000 schillings in August, 1932 when the notes were first issued to 39,000 schillings the following April. With the exception that the town in effect earned 12% interest on outstanding “Wära” notes – and made a loan to itself – other economic benefits are harder to pinpoint. But, like Germany, Austria was



*Stamped Money Used in  
Hawarden, Iowa –  
Unlike that advocated by Gessell,  
this money was stamped only  
when it was spent.*

jealous of its prerogatives and the Austrian National Bank won a lawsuit against the town in August, 1933 and the notes were prohibited.

The Germanic countries were not alone in issuing stamped currency; something similar was also used in the United States, but in this case, it bore only a superficial resemblance to Gessell economics. In all, some 18 towns in 10 states issued stamped money – but with the following large difference: the stamps were applied at every purchase rather than periodically. Issued by towns with little or no funds on hand, they were paid out for municipal purchases of wages and goods and receivable by all local stores and the town. But the Hawarden, Iowa one dollar note is typical: at each purchase a stamp costing three-cents per dollar had to be applied. In reality, a municipal sales tax. The need for these types of note passed as Roosevelt's "New Deal" programs got underway and municipalities found it easier to obtain loans secured by their tax bases.

### **The Canadian Experiment**

By the summer of 1935, few places in North America were less well off than the Canadian Prairies and to depression was added drought. Unable to cope with the overwhelming problems, the ruling United Farms Party of Alberta were turfed out by the electorate and replaced by the Social Credit Party of William Aberhart in August. Aberhart was a Calgary high school principal, but was better known for being the head of the Prophetic Bible Institute and his stirring religious radio broadcasts. In recent years, Aberhart had adopted wholesale the economic teachings of Major Clifford Hugh Douglas and his "Social Credit."

Social Credit as a philosophy is practically impossible to describe. At different times, it attracted and repelled numerous groups but, under Douglas at least, it was broadly anti-socialist, anti-labour, anti-semitic and was in alliance at various

times with the Green Shirt Party, Moseley's British Fascist Party and something called the New Democracy Party (which was Canadian Conservative New Dealers). Fundamental to the theory of Social Credit was the "National Dividend" and it was on this aspect that Aberhart was elected. By his interpretation, the National Dividend was a payment of \$25 monthly to each adult Albertan with a lesser amount for children out the "Social Credit." His catchy campaign slogan was "Money has too much and men too little."

Although Aberhart was Douglas' semi-disciple, Douglas had little use for the Alberta premier and privately was aghast that his philosophies had been adopted, adulterated and altered by what he termed "crackpots." Aberhart asked Douglas to come to Canada immediately after the election, but was forced to withdraw this request when the treasury proved to be dry; instead, he asked Douglas to map out Alberta's economic strategy by mail.

Douglas' suggestions seem to lack an air of reality. When Aberhart asked him for a concrete plan as how to inaugurate the Social Credit plan, Douglas seriously suggested that the banks be asked to make a loan of \$5,000 to the Province, free of interest and uncallable, collecting only a service charge of 1-1/2%. Since banks might understandably be unwilling to finance their own demise, his second suggestion was to "get" all holders of stocks and bonds to exchange them for Alberta's own short-dated notes, bearing 1%; the previous holders would continue to receive the dividends paid on them, but for speculative profits, possible only if readily sold.

Nor could Aberhart borrow from the Federal government; his refusal to allow a Federal Loan Council to control expenditure of funds made him automatically ineligible for such a loan. With his gentle – if logical – refusal of Douglas' suggestions, Aberhart was now on his own, subject



*Premier Wm.  
Aberhart, 1941*



*Major C. H. Douglas  
1934*

only to criticism from the Major.

But political considerations were piling up for the Premier. In power for nearly a year, no move had yet been made to pay the “National Dividend” as promised – a major plank in his platform. Therefore, it was more with desperation than anything that the “Alberta Prosperity Certificates” made their appearance on August 5, 1936.

Primarily, these certificates were modified Gessell instruments since on their reverse were spaces for 104 one-cent validating stamps, one for each week of August 12, 1936 through August 3, 1938 inclusive. The certificates were all for the sum of One Dollar and would pass for that amount providing the appropriate stamps were affixed. This being true, the Alberta government believed that the certificates would circulate with great rapidity, no one wishing to be the one forced to pay the one-cent weekly stamp tax maintaining the instrument’s value. In addition, the total of 104 one-cent stamps within two years equalled the face value of the note plus four-cents to cover the cost of production and circulation. In other words, no-cost money. Or so Aberhart hoped.

Aberhart must have been aware of the other monetary experiments, international and otherwise, before he released these

certificates. He must have also been aware why most of them failed – or perhaps chose not to examine that aspect. The Austro-German attempts failed ultimately because they trod on federal jurisdiction – as did the Alberta effort; calling them “circulating pay warrants” and the like was merely begging the question. The American issues of paper were usually stop-gap efforts between desperately needed funds and reimbursement through taxes. There was never any attempt to displace federal currency and the U.S. government habitually regarded the issues as local self-help and not be discouraged.

Aberhart was not even the first in the province to try depression scrip. When the town of Raymond, Alberta, could not obtain a bank loan to pay its teachers’ salaries, it resorted to a scrip issue; but it was not depreciating or taxed currency and was successful only because Raymond had a fairly healthy tax base resting on a local sugar factory. The Alberta government knew all about this scheme as its Agricultural Commission was holding hearings in Raymond on April 8, 1935.

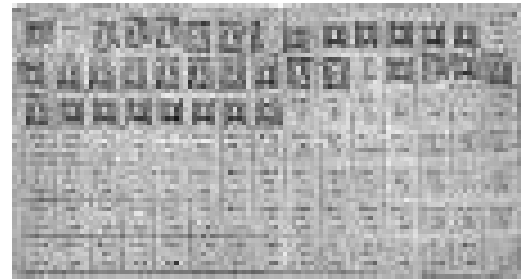
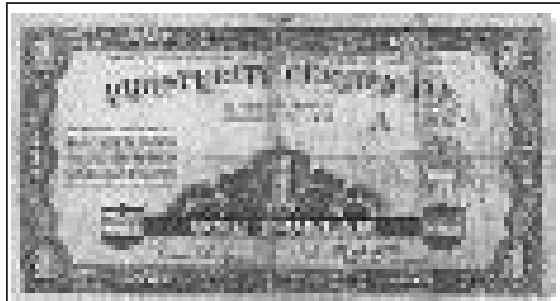
By the spring of 1936, Aberhart and Douglas were no longer on speaking terms so the premier set up a committee of M.L.A.s to devise ways to increase the purchasing power of Albertans within the parameters of Social credit philosophy – if possible. It was this committee that created the Alberta Prosperity Certificates under the Social Credit Measures Act (Statutes of Alberta, I Edward VIII, 1936, Chapter 8).

While on the Coast that spring, Aberhart met and engaged the services of E.S. Woodward, another economic “expert” and a Gessellite. Upon his return from Vancouver on April 23, 1936, the government announced that it would issue “scrip” and Aberhart and his cabinet now

toured the province preaching its merits and imploring merchants, school board, town councils – in fact, everybody – to freely accept it. There was, in fact, a great deal of opposition to it, particularly among holders of provincial bonds, the redemption of which had been defaulted by the Socreds. Nor was all well within the government itself; some members wanted the scrip given out in the form of the National Dividend while Woodward objected strenuously since it would bankrupt the treasury. Also objectionable to him was the government's refusal to accept its own "scrip" in payments of fines, taxes or alcohol. It was Aberhart's contention that scrip flowing back into the treasury instead of circulating among merchants would not stimulate the economy. Woodward delivered an ultimatum and was fired.

Such was the state of affairs when the Alberta Prosperity Certificates appeared on August 5, 1936. Although a total amount was authorized at two billion dollars' worth, some 500,000 were actually printed – all in one dollar denominations – by Abe Shnitka, the King's Printer (appearing as Western Printing and Lithographing Co. Ltd. Calgary on the notes). As things turned out, only an ultimate amount of \$262,000 was actually circulated at all (Myers). The Charlton catalogue of "Canadian Government Paper Money" gives somewhat different figures: 357,680 notes circulated, 19,639 not redeemed.

First to receive the notes were workmen engaged in work-relief road-building programs and while merchants were pleased to see payment made on their overdue accounts, they were less pleased when they found that their suppliers would not accept the scrip; nor would banks nor branches of the larger department store chains. In an attempt to shore up confidence in the Certificates, the Alberta government allowed merchants to redeem them in Canadian currency when out-of-province



*Prosperity Certificate  
circulated with stamps*

payments were to be made and taxes could not be paid in scrip. Very shortly, confidence required that the notes be redeemable at any time, even before the two years was up. The result was predictable: by September 30, nearly half the total issue had been redeemed and by November 14, only \$36,000 of the total issue was outstanding (Myers).

In April, 1937, the plan was officially abandoned, the Charlton work giving the figure of notes still outstanding as 19,639 and the Myers work quoting \$12,000 as the amount unredeemed. Perhaps both figures are correct if some 7,639 were redeemed at the time of abandonment leaving the other figure as the amount never turned in for redemption.

Obviously the program had been a failure and Aberhart would have been better off to accept the conditions of a federal loan. In effect, people were being taxed on money itself which was hard enough to come by in the first place. The Canadian Bankers Journal at this time also pointed out another bad feature of the certificates: the payment of this "tax" would almost certainly tend to fall on those least able to pay – the working poor and employees.

One other minor objection was the stamps themselves which had a disquieting tendency to fall off from lack of mucilage.

The illustrated note (page 401), although in somewhat indifferent condition is one to be noted. Formerly in the collection of a prominent Ontario numismatist, the writer acquired it at the time it was sold off nearly 30 years ago. Although he had at least one unstamped uncirculated certificate as well as one in top condition with only a very few stamps on it, private correspondence with the writer in the 1960s revealed a significance to the extent that more than contemporary market value was paid for it. Over some 20 years or more, the original collector had exercised a certain amount of diligence in attempting to collect that specimen of Alberta Prosperity Certificate which, in his opinion, carried the greatest number of legitimately applied stamps. The illustrated note was the result of his search. Based on it, he believed that the certificates were called in by early May 1937 or shortly thereafter. The last stamp on this certificate covers the space dated "April 28, 1937," one of a strip of two, and, even though three single stamps are missing, presumably falling off in the course of time due to the poor mucilage, this does negate their transference from another part of the note. In fact, just before this double is a strip of five; just what we'd expect of a certificate becoming increasingly unpopular and the current holder needing to play "catch-up" from time to time in order to restore its face value.

The word "legitimate" is used above for a very good reason. Until at least the late 1950s, packets of a hundred of these stamps were sometimes available from stamp dealers for a very nominal price, but are now pricey collectors' items in their own right. However, at the time, the retirement time of the certificate project was probably not known at all and may not definitely be known even now. The writer has

found only one work which gives a time: "April, 1937" and no date (Myers); presumably this bit of information still exists somewhere within the Alberta Archives or the files of the provincial financial department.

The level of information lacking at the time can be illustrated by a conversation with R.C. Willey in 1969/70 shortly after the acquisition of this note. At that time, he had in his collection an uncirculated certificate with all 104 stamps attached which he cheerfully admitted was an impossibility since if nothing else, no note can circulate for two years and remain Uncirculated. At the time, neither of us could hazard a guess as to how many legitimate stamps there could be. It now appears that this one pushes the limit and the wonder is that it was not redeemed and destroyed after having been brought up to full value.

#### **The National Dividend Postscript**

Almost at the same time as the scrip was released, Aberhart put into practice a second program that was controversial in the extreme: this was the Registration Covenant. As explained in the papers of August 31, 1936, all Albertans who wished to receive the Social Credit dividend were required to sign a covenant "to co-operate most heartily" with the Alberta government, that Canadian currency was to be exchanged for "Alberta Credit," that the covenantor not make any claim on Alberta for Canadian currency, nor were they to use anything but Canadian currency in payment of Alberta taxes, licenses or fines and, in addition, they were to disclose all their assets, liabilities, sources of income and other personal information. Special provisions for farmers required them to sell at least 50% of their produce for "Alberta Credit" and, in order that the covenant remain binding, all citizens leaving the province for more than one month had to have permission from the manager of the State Credit House.

“Alberta Credit” was never defined, but enough citizens believed it to be the “National Dividend” of \$25 per month – albeit in Prosperity Certificates – that there was a fair rush to sign up immediately after the announcement.

Advertisements for positions in “State Credit Houses” gave the promise of new jobs when they supplanted the banks but, of course, with the exception of a few “credit unions,” this never came about.

More extraordinary was the legislative session that fall and its controversial laws (practically all of which were struck down), legislation that came to be known as “Statutes of Alberta, 1 Edward VIII, Session II, 1936, Act:” –

Act I. Legalized the registration program, established the State Credit Houses and created non-negotiable certificates that acted as cheques. Loans at 2% were to be made to covenant signers and broad powers were to be granted to the government for “further development.”

Act II. Cancelled all interest payments on debts contracted prior to July, 1932, and established a “Debt Adjustment

Board” to rule on property seizures and repayments.

Act III. Further powers granted to the “Debt Adjustment Boards.” They were empowered to stop legal actions against foreclosed homes and farms and assist debtors in working out terms of repayment. The Board’s decisions were final and could not be appealed through the courts.

Act IV. Legalized the issue of the Prosperity Certificates. Legalized the government’s reduction of 50% in the payment of interest on bonds and savings certificates.

Act XVI. An amendment to the Judiciary Act (made retroactive to September 1, 1935) made members of the Executive Council immune from prosecution or legal action due to any of their legislation.

That fall, Alberta defaulted on her bonds as they came due. In all, she defaulted on some \$9,000,000 worth between April 1936 and the end of 1938. Nor was that all of Aberhart’s troubles: the Canadian federal government reserved to itself all matters pertaining to banking, currency, trade and commerce as well as the supremacy of the Supreme Court over provincial legislation and practically all of Aberhart’s Acts had been disallowed by late 1938.

The great Prosperity Certificate experiment was swept away along with all of its supporting structure. □

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*Registration Covenant, 1936*



## MONEY THAT ROTS LIKE POTATOES

**Ron Greene** has provided copies of a number of brochures produced in the 1940's by the Natural Economic Order in Canada (NEO), a group whose mailing address was in Victoria, B.C. On the front cover of issues of *The Neo-Economist* are shown models or prototypes of the kind of currency the organization promoted. One of their stated objects was to increase the velocity of circulation. This they hoped to achieve by assessing a depreciation of a cent a month to ensure that their proposed bills would stay in circulation instead of being hoarded. The full value of the dollar note could only be restored by affixing one cent "demurrage" stamps.

In this respect, the NEO dollars are very reminiscent of Alberta's experiment with Social Credit, the Prosperity Certificates of 1935.

The bearded man depicted at the centre of the face of the note is economist Silvio Gesell (1862-1930), whose theories the group claimed to espouse.

The signatures are not those of real people, but merely urge political support: B. A. Freeman and R. U. Withus.

The following quotes from the group's publications will give an adequate notion of their platform: "the existing interest-exacting, wealth restricting, crises-creating monetary system must be abolished...or usury will wreck the nation".

"Money which goes out of date like a newspaper, rots like potatoes, rusts like iron, evaporates like ether, is alone capable of standing the test as an instrument for the exchange of potatoes, newspapers, iron and ether. For such money is not preferred to goods either by the purchaser or the seller. You then part with your goods for money only because you need the money as a means of exchange, not because you expect an advantage (interest) out of the possession of money."

SPECIMEN ONLY

### THE COUNTRY, OR BANK, OF ISSUE

B. C. 201  
JUNE 30, 1944

Until the date designated above this currency note is legal tender at its face value for all debts, public and private.

Subsequently, it is subject to demurrage at the rate of one per cent of its face value for each month, or fraction thereof, that it is withheld from circulation,

A1-1234567

## ONE DOLLAR

SILVIO GESELL  
1862-1930

B. C. 201  
JUNE 30, 1945

Until the date designated above when it becomes null and void. During the intervening period any commercial bank will pay to the bearer on demand the depreciated value of this note, or its face value upon the affixture of demurrage stamps in the required amount.

A1-1234567

## ONE DOLLAR

SPECIMEN ONLY

ISSUED IN PURSUANCE AND UNDER AUTHORITY OF THE  
CURRENCY STABILIZATION ACT, 1941

The issue and circulation of imitation and void Currency Notes is prohibited.

*B. A. Freeman*  
Chairman Currency Stabilization Commission.

*R. U. Withus*  
Minister of Finance.

ONE

SPECIMEN ONLY

### THE COUNTRY, OR BANK, OF ISSUE

This currency note is legal tender at par during the period designated on its face, providing that on the first day of each month the depreciation is restored by the affixture, or imprinting, of demurrage or excise stamps in the spaces shown below. Otherwise it is redeemable at its depreciated value only.

Month	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	
Demurrage . . . .	1c	1c	1c	1c	1c	1c	1c	1c	1c	1c	1c	1c	Null and
Depreciated value	99c	98c	97c	96c	95c	94c	93c	92c	91c	90c	89c	88c	Void

The primary function of money is to serve as a medium of exchange, and it cannot be withheld from circulation indefinitely, to be used in an incompatible function merely as a store of value, without disrupting the orderly process of production, distribution and exchange that is the basis of our economic system.

Therefore, this currency note will be subject to demurrage, unless it is either promptly exchanged by the bearer for the currently created goods and services that provide its only coverage, or is assigned by gift, loan, investment or in discharge of debt, to somebody who will replace it in circulation without undue delay.

## ONE DOLLAR

SPECIMEN ONLY

# Appendix B

## Alternative Money

This history has focused on legal tender money in Canada, that is to say money that has been approved by the authorities for paying debts or settling transactions. Canada also has a rich history of private money—coins and paper scrip produced by individuals and companies, which commanded sufficient confidence within a community that they circulated freely.

### “Bons” and tokens

Through much of the colonial period in New France and later in British North America, merchants, and even individuals, issued paper scrip. The paper scrip was not backed by gold or silver but could be used to buy goods in the issuers’ stores—a sort of IOU, which quickly began to change hands as money. The value of notes and the extent of their circulation depended on the reputation of the issuer.

In Upper and Lower Canada, such fractional notes (known as *bons* after “*Bon pour*,” the French for “Good for,” the first words on many such notes) circulated widely during the eighteenth and early nineteenth centuries. Fractional notes were also issued by merchants in the Atlantic



Montréal, George King note, 1772

This note and others issued by the local merchant George King were denominated in “coppers,” a conventional designation for a halfpenny.



Halifax, merchant note, 5 shillings, 1820

Until the practice was outlawed in 1820, Halifax merchants commonly issued personalized scrip in low denominations to meet the need for coinage.

provinces. The widespread acceptance of *bons* (also called “shinplasters”) helped to set the stage for the issuance of paper currency by commercial banks (Shortt 1986, 37).

Similar to “*bons*,” brass and copper tokens circulated alongside legal tender coins and helped to offset a shortage of low-denomination coins, useful in small day-to-day transactions.<sup>7</sup> With a face value of a half a penny or penny, tokens were widely distributed by banks, non-financial companies, and individuals. While some tokens identified the issuer, many did not. Provincial governments also issued tokens. These so-called semi-regal tokens were not legal tender coins because they were not sanctioned by the authorities in London. Issuing tokens was a profitable business, since the cost of production was significantly lower than their denominated value.

While most early colonial tokens were taken out of circulation in the 1870s, when the new federal government reorganized Canada’s copper coinage, trade tokens remained popular into the 1930s. Trade tokens were redeemable for goods and services of a given value (for example, a loaf of bread) and were issued by a wide range of companies. While these tokens were very successful in local communities, their popularity waned when transportation improved and business became less local in nature.



**Bank of Montreal, halfpenny, 1839**

The Bank of Montreal issued base-metal tokens for general circulation in the late 1830s and early 1840s. The rarest issue from this bank is the so-called “side views” that feature a view of the corner of the Bank of Montreal head office.



**Merchant token, I. Carrière,  
½ loaf, Buckingham, Quebec**

From the late nineteenth through the mid-twentieth centuries, many Canadian businesses issued tokens as advertising and to encourage client loyalty. Typically made of brass or aluminum, they were redeemable by the issuer for the indicated item or service.

7. Useful references include Breton (1894), Banning (1988), Cross (1990), and Berry (2002).

Today, Canadian Tire “money” represents the best-known modern equivalent of trade tokens. First introduced in 1958 as a “cash bonus coupon,” Canadian Tire “money” constitutes a promotional reward program under which the scrip, which has no expiry date, is redeemable for goods at any Canadian Tire store in any amount. Canadian Tire “money” has sometimes been accepted by third parties in lieu of cash.



Canadian Tire coupon, 10 cents, 2002  
Canadian Tire “money”—a Canadian icon

## Prosperity certificates

During the Great Depression of the 1930s, a number of towns and cities issued scrip or certificates that circulated as money. In August 1936, Alberta’s Social Credit Government, led by William Aberhart, issued “prosperity certificates.”<sup>8</sup> These were issued in denominations of \$1 and were used to pay relief workers on provincial public works projects. Additionally, the legislation allowed certificates to be put into circulation via special agreements with municipalities.

To promote the circulation of certificates, increase spending, and deter hoarding, holders were required to affix a one-cent stamp to the certificates every week to maintain their value. At the end of two years, the Government of Alberta promised to redeem the certificates using the proceeds of the stamp sales, with the residual (after paying the expenses related to the issuance of the certificates and the stamps) going to the government.

Prosperity certificates, quickly known as “funny money,” were not well received by the general public who objected, among other things, to having to buy stamps to maintain their purchasing power. Most stores were also reluctant to accept them. Almost immediately, the Alberta Supreme Court issued an interim injunction halting a deal between the province and the city of Edmonton on the issuance and circulation of

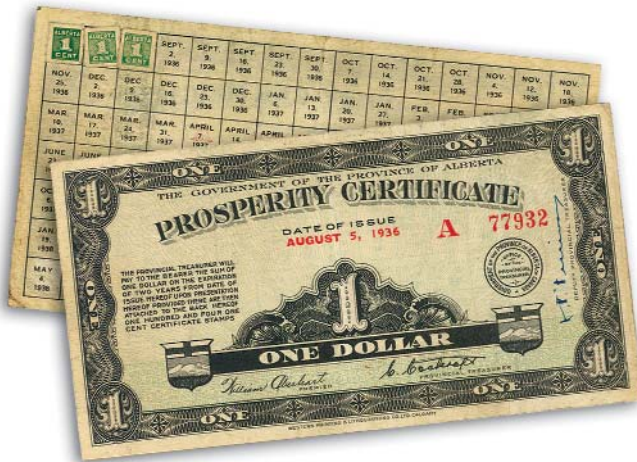
8. See *An Act Respecting Prosperity Certificates*, Alberta, 1936.

## Community money

Communities, typically isolated ones such as islands, have sometimes issued scrip or alternative currencies that could be used locally to buy goods and services. In 1837, William Lyon Mackenzie issued dollar-denominated notes in the name of the Provisional Government of Upper Canada on Navy Island in the Niagara River, following his abortive attempt to seize Toronto in the Rebellion of 1837.

During the second half of the nineteenth century, private notes, denominated in dollars, were issued by Calvin & Son, a family-owned firm, on Garden Island, located in Lake Ontario near Kingston and then home to about 750 people. The company, which was principally involved in the timber and ship-building businesses, owned virtually everything on the island. Its notes could be used to buy goods in the company-owned general store (Swainson 1984).

Since 2001, Salt Spring Island, British Columbia, with a population of about 10,000, has issued its own alternative currency. Salt Spring Island dollars are issued by the Salt Spring Island Monetary Foundation, a not-for-profit society, whose objective is to maintain a local currency on



Alberta, \$1, prosperity certificate, 1936

certificates by the city.<sup>9</sup> Following a subsequent decision by the government to redeem the certificates monthly instead of waiting two years, the stock of outstanding certificates declined sharply. The Alberta government finally abandoned the issuance of prosperity certificates in April 1937. At that time, only \$12,000 were still in circulation out of \$500,000 printed.<sup>10</sup>

9. The Court did not base this judgment on the constitutional merits of prosperity certificates, although it believed this to be a very important issue. Rather, the injunction reflected the fact that the payment of a stamp tax on the certificates by the city represented a burden on Edmonton tax payers and that the city did not have the authority to carry on business through two monetary systems, one based on legal tender, the other based on certificates. Although the Supreme Court of Canada apparently never gave an opinion on the prosperity certificates themselves, it ruled in 1938 that three pieces of Social Credit legislation (*An Act Respecting the Taxation of Banks*, *An Act to Amend and Consolidate the Credit of Alberta Regulations Act*, and *An Act to Ensure the Publication of Accurate News and Information*) were unconstitutional.

10. The Globe, 8 April 1937



#### **Salt Spring Island, \$5, 2001**

In 2001, the Salt Spring Island Monetary Foundation was established to issue note-like certificates to help fund community initiatives on this island off Canada's west coast. This note was designed by Warren Langley and Pat Walker.

the island for community projects and to promote local commerce and goodwill.<sup>11</sup>

The bills, which are considered to be gift certificates, are designed by local artists and are protected by sophisticated anti-counterfeiting devices. They are widely accepted by stores, individuals, and financial institutions on the island. While not legal tender, they are redeemable upon demand in Canadian currency. To ensure

convertibility, each Salt Spring Island dollar in circulation is backed by a reserve fund in the form of cash, term deposits, or gold. Certificates may be bought and redeemed on demand at participating stores, banks, and credit unions.

An interesting feature of Salt Spring Island dollars is that they are issued in limited editions. It is hoped that the attractive bills will be retained by visitors to the island as souvenirs. Net income generated by the reserve fund is used to help finance community projects.

11. See [www.saltspringdollars.com](http://www.saltspringdollars.com).