1, 1947

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In the Privy Council.

No. 26 of 1940.

ON APPEAL FROM THE SUPREME COURT OF CANADA

IN THE MATTER of a Reference as to the legislative competence of the Parliament of Canada to enact Bill No. 9 of the Fourth Session, Eighteenth Parliament of Canada entitled "An Act to amend the Supreme Court Act."

BETWEEN

THE ATTORNEY-GENERAL OF ONTARIO
THE ATTORNEY-GENERAL OF BRITISH COLUMBIA
THE ATTORNEY-GENERAL OF NEW BRUNSWICK AND
THE ATTORNEY-GENERAL OF NOVA SCOTIA ... *Appellants*

AND

THE ATTORNEY-GENERAL OF CANADA
THE ATTORNEY-GENERAL OF MANITOBA AND
THE ATTORNEY-GENERAL OF SASKATCHEWAN ... *Respondents*

AND

THE ATTORNEY-GENERAL OF QUEBEC ... ... *Intervening.*

CASE FOR A.-G. CANADA

CASE OF THE ATTORNEY-GENERAL OF CANADA

RECORD

1.—This is an Appeal by Special Leave from a Judgment of the Supreme Court of Canada pronounced on the 19th day of June, 1940, p. 123
upon a reference by His Excellency the Governor in Council for hearing and p. 5
consideration pursuant to Section 55 of the Supreme Court Act of a question relative to the authority of the Parliament of Canada to amend the Supreme Court Act so as to give the Supreme Court of Canada exclusive ultimate appellate civil and criminal jurisdiction within and for Canada.

2.—The question was referred with reference to Bill No. 9 of the p. 6
Fourth Session of the Eighteenth Parliament of Canada entitled "An Act
10 to amend the Supreme Court Act," the operative provisions of which are

RECORD

"1. Section fifty-four of the Supreme Court Act, chapter thirty-five of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

'54. (1) The Supreme Court shall have, hold and exercise exclusive ultimate appellate civil and criminal jurisdiction within and for Canada; and the judgment of the Court shall, in all cases, be final and conclusive.

'(2) Notwithstanding any royal prerogative or anything contained in any Act of the Parliament of the United Kingdom or any Act of the Parliament of Canada or any Act of the legislature of any province of Canada or any other statute or law, no appeal shall lie or be brought from any court now or hereafter established within Canada to any court of appeal, tribunal or authority by which, in the United Kingdom, appeals or petitions to His Majesty in Council may be ordered to be heard.

'(3) The Judicial Committee Act, 1833, chapter forty-one of the statutes of the United Kingdom of Great Britain and Ireland, 1833, and The Judicial Committee Act, 1844, chapter sixty-nine of the statutes of the United Kingdom of Great Britain and Ireland, 1844, and all orders, rules or regulations made under the said Acts are hereby repealed in so far as the same are part of the law of Canada.'

"2. Nothing in this Act shall affect any application for special leave to appeal or any appeal to His Majesty in Council made or pending at the date of the coming into force of this Act.

"3. This Act shall come into force upon a date to be fixed by proclamation of the Governor in Council published in the Canada Gazette."

The question referred to the Supreme Court of Canada was:—

p. 6, ll. 17 to 19

"Is said Bill 9, entitled 'An Act to amend the Supreme Court Act,' or any of the provisions thereof, and in what particular or particulars, or to what extent, *intra vires* of the Parliament of Canada?"

3.—The argument of the reference took place on the 19th, 20th and 21st day of June, 1939. Counsel appeared for the provinces of Ontario, Nova Scotia, New Brunswick, Manitoba, Prince Edward Island and British Columbia, as well as for the Dominion.

4.—The relevant provisions of the British North America Act, 1867, are:—

"91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all

Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces ;

* * * * *"

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

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

* * * * *

13. Property and Civil Rights in the Province.

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

* * * * *

16. Generally all Matters of a merely local or private nature in the Province."

" 101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada."

" 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."

5.—The provisions of the British North America Act, 1867, were, in terms, made applicable only to the Provinces thereby united, namely, the Provinces of Canada, Nova Scotia and New Brunswick ; but the Province of Canada was by that Act divided into two separate Provinces, namely,

RECORD

the Provinces of Ontario and Quebec and relevant provisions of the British North America Act, 1867, were made applicable to the Provinces subsequently created or admitted into the Union, namely :

p. 187 (a) in the case of Manitoba (Rupert's Land and the Northwestern Territory having been admitted into and made part of Canada by Order of the Sovereign in Council dated June 23, 1870 with effect
pp. 190-1 from July 15, 1870) by s. 2 of the Manitoba Act, 1870 ;

pp. 192-5 (b) in the case of British Columbia, by Article 10 of the terms of Union with that Province approved by Order of the Sovereign in Council dated May 16, 1871 ;

pp. 195-7 (c) in the case of Prince Edward Island, by the terms of Union approved by Order of the Sovereign in Council dated June 26, 1873 ;

pp. 197-8 (d) in the case of Alberta, by s. 3 of the Alberta Act, 1905 ; and

pp. 198-9 (e) in the case of Saskatchewan, by s. 3 of the Saskatchewan Act, 1905.

p. 200 6.—The Statute of Westminster, 1931, 22 Geo. V (Imperial) c. 4 removed certain legal restrictions from the legislative powers conferred by the British North America Act, 1867. Its relevant provisions are :

" 2. (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion."

" 3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation."

" 7. (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively."

RECORD

7.—The Judicial Committee Act, 1833, 3 & 4 Wm. IV, c. 41 (Imperial), which Bill 9 purports to repeal in so far as it is part of the law of Canada, created "The Judicial Committee of the Privy Council" a statutory body. It recites *inter alia* that "from the decisions of various "courts of judicature in the East Indies, and in the Plantations, Colonies, "and other Dominions of His Majesty abroad, an Appeal lies to His "Majesty in Council" and provides *inter alia* for the more effectual hearing and reporting of appeals to His Majesty in Council and for giving powers and jurisdiction to His Majesty in Council. The statute requires that "all Appeals or Complaints in the nature of appeals whatever, which, "either by virtue of this Act, or of any law, statute or custom, may be "brought before His Majesty or His Majesty in Council" from the order of any court or judge, be thereafter referred by His Majesty to, and be heard by, the Judicial Committee as established thereby, who are required to make a report or recommendation to His Majesty in Council for His decision thereon. The Judicial Committee Act, 1844, 7 & 8 Vict. c. 69 (Imperial), which Bill 9 also purports to repeal in so far as it is part of the law of Canada, recites *inter alia* that it has been found necessary to improve the proceedings of the Judicial Committee in some respects for the better despatch of business and expedient to extend its jurisdiction and powers and enacts *inter alia* that it shall be competent to Her Majesty, by general or special Order in Council, "to provide for the admission of any Appeal "or Appeals to Her Majesty in Council from any Judgments, Sentences, "Decrees, or Orders of any Court of Justice within any British Colony or "Possession abroad, although such Court shall not be a Court of Errors "or a Court of Appeal within such Colony or possession."

pp. 203-5

pp. 206-7

8.—In virtue of certain Imperial Orders in Council passed under the authority of the Judicial Committee Acts, an appeal lies generally speaking from a judgment of the Supreme Court of each province except Ontario or Quebec (a) as of right from a final judgment where the matter in dispute on the appeal amounts in value to a specified sum or upwards, or (b) at the discretion of the court from any other judgment of the court whether final or interlocutory. It may also be noted that by a pre-confederation statute, c. 99 of the Imperial Statutes of 1858, which established the colony of British Columbia, it was provided that all judgments given in any civil suit in British Columbia shall be subject to appeal to Her Majesty in Council.

pp. 211-16

pp. 118-19

9.—By the Constitutional Act of 1791, 31 Geo. III, c. 31 (Imperial), under which the old Province of Quebec was divided into two new

p. 217

p. 218 provinces called Upper and Lower Canada, respectively, provision was made (s. 34) for the establishment of a court of civil jurisdiction within each of the provinces, for hearing and determining appeals " in the like " cases, and in the like Manner and Form, and subject to such Appeal " therefrom, as such Appeals might before the passing of this Act have " been heard and determined by the Governor and Council of the Province " of Quebec ; but subject nevertheless to such further or other Provisions " as may be made in this Behalf, by any act of the Legislative Council " and Assembly of either of the said Provinces respectively assented to " by His Majesty, His Heirs or Successors." In professed exercise of the power so conferred, the Legislature of each of the two provinces enacted a statute (Lower Canada, 34 Geo. III, c. 6 ; and Upper Canada, 34 Geo. III, c. 2) providing for appeals in certain classes of cases to His Majesty in Council. These statutory provisions (assuming them to have been validly enacted), were continued in force by s. 46 of the Act of Union, 1840, 3 & 4 Vict., c. 35 (Imperial), and were, subject to certain intermediate modifications, continued in force by s. 129 of the British North America Act, 1867. The existing statutory provisions relating to Privy Council appeals appearing on the statute books of these provinces, are to be found in Ontario, in the Privy Council Appeals Act, c. 98, of the Revised Statutes of Ontario, 1937, and, in Quebec, in Article 68 of the Quebec Civil Code of Procedure.

pp. 219-20
pp. 221-22
pp. 222-7
pp. 186-7
p. 229
p. 231

10.—Provision was made for appeals to the Privy Council from the judgments of Colonial Courts of Admiralty by s.6 of the Colonial Courts of Admiralty Act, 1890, 53 & 54 Vict. c. 27 (Imperial). The Admiralty Act, 1891, c. 29 of the Statutes of Canada of 1891, declared the Exchequer Court of Canada to be a Colonial Court of Admiralty under The Colonial Courts of Admiralty Act, 1890. The Admiralty Act, c. 31, of the Statutes of Canada, 1934, repealed the Colonial Courts of Admiralty Act, 1890, in so far as that Act was part of the law of Canada but provided that the provisions thereof providing for an appeal to His Majesty in Council in Admiralty matters should continue to be in force and should be deemed not to have been repealed.

pp. 208-11
pp. 216-17

11.—On the 19th day of January, 1940, judgment was delivered by the Supreme Court of Canada certifying the opinions in respect of the question referred to the Court as follows :

pp. 123-4

" By the Court : The Parliament of Canada is competent to enact the Bill referred in its entirety.

" By Mr. Justice Crocket : The Bill referred is wholly ultra vires of the Parliament of Canada.

" By Mr. Justice Davis : The Bill referred if enacted would be within the authority of the Dominion Parliament if amended to provide that nothing therein contained shall alter or affect the rights of any

province in respect of any action or other civil proceedings commenced in any of the provincial courts and solely concerned with some subject-matter, legislation in relation to which is within the exclusive legislative competence of the legislature of such province."

RECORD

12.—The then Chief Justice of Canada, the Right Honourable Sir Lyman P. Duff, considered separately the prerogative appeal and the appeal as of right. pp. 124-137

13.—The learned Chief Justice dealt first with the prerogative appeal. He said that consideration of the questions raised involves an examination of the authority of the Parliament of Canada under Section 101 of the British North America Act, as well as its authority under its general powers to make laws for the peace, order and good government of Canada. The authority to make laws for peace, order and good government is, by the express provisions of the Confederation Act of 1867, he said, affected by only two limitations: first, it does not extend to matters assigned exclusively to the Provinces and second the limitation contained in Section 129 which is, since the Statute of Westminster, no longer in force. With reference to its powers to make laws for the peace, order and good government of Canada, he referred to the nature of the sovereignty which Parliament has been conceived to possess and has actually exercised since the earliest times of Confederation and said that "It would, indeed, be "singular if the enactments of a legislature, charged with such responsi- "bilities, responsibilities of the very highest political nature, should be "interpreted and applied in a narrow and technical spirit or in a spirit "of jealous apprehension as to the possible consequences of a large and "liberal interpretation of them." He said that the main contention against the validity of the appeal on this branch of the argument is founded on Clause 14 of Section 92 and that as far as concerns this contention the subject-matter of the Bill is found in the provisions abrogating the appeal from Canada to His Majesty and the Judicial Committee. He pointed out that the members of His Majesty's Privy Council are nominated by the King on the advice of the Prime Minister of the United Kingdom, that the Judicial Committee is a statutory appellate court established and exercising jurisdiction as a court of justice under statutes of the Parliament of the United Kingdom, that the Court (the Judicial Committee) exists and exercises its jurisdiction under authority derived from the Parliament of the United Kingdom and its members are Privy Councillors who are nominated by statute in virtue of holding, or having held, high judicial offices in England or Scotland or are appointed by Order in Council pursuant to statutory authority and that the constitution and organisation of the Court in every respect is exclusively subject to the Parliament of the United Kingdom. He said that it is obvious that the Judicial Committee is not a provincial court within Clause 14 of Section 92, it being self-evident that the phrase denotes courts which, as to their jurisdiction are primarily subjects of provincial legislation and whose process in civil matters, save in certain exceptional cases, does not run beyond the limits of the province,

p. 125, l. 18

p. 125, l. 42

p. 126, l. 27

p. 126, l. 37

p. 127, l. 1

p. 127, l. 7

p. 127, l. 14

p. 127, l. 25

RECORD

and that no legislature in Canada has anything to say about the constitution
p. 127, l. 46- of the Judicial Committee or its organisation. While, he said, it would
p. 128, l. 12 perhaps not be an abuse of language to say that the jurisdiction of His Majesty in Council by which he is enabled to make orders requiring the court appealed from to carry out His adjudication is a jurisdiction which affects the jurisdiction of the court from which the appeal lies, it is quite another thing to say that this jurisdiction or power of His Majesty's is a matter within the definition of Clause 14 so that legislation to abrogate that jurisdiction is legislation " in relation to " provincial courts within the meaning of Clause 14. He said he was unable to convince himself that such legislation would in its " pith and substance " be legislation " in relation to " the " constitution, maintenance and organisation of provincial courts " or " procedure in those courts in civil matters." " Its true subject matter " he said, " would be the appellate jurisdiction " of the Judicial Committee." With reference to the words " the
p. 128, l. 14 " administration of justice *in* the province " in Clause 14, he said the court was required by *Nadan* v. *The King*, 1926 A.C. 482 as interpreted in *British Coal Corporation* v. *The King*, 1935 A.C. 500, to hold that legislation intended to abrogate the prerogative appeal must be " extra-territorial in its operation," and that the legislative powers vested in the Parliament of Canada under the enumerated clauses in Section 91 did not, before the Statute of Westminster, enable that legislature to annul this prerogative because such powers were confined to " action taken in Canada " and he said that it would appear " that the central governing act " in the appeal to the Judicial Committee is the decision " and you cannot get rid of the authority to adjudicate unless you are endowed with extra-territorial powers. The legislative powers of the provinces under
p. 128, l. 44 to p. 130, l. 16 Section 92 (14), he said, are strictly confined in their ambit by the territorial limits of the provinces and the matters to which that authority extends are matters which are local in the provincial sense. (*Local Option Case*, 1896, A.C. 348, per Lord Watson at pp. 359 and 365.) The legislation of the provinces under all the heads of Section 92 is, by law, confined, he said, to matters which are " local in the provincial sense " (*Royal Bank of Canada* v. *Rex*, 1913 A.C. 283). He thought that they were bound by *Nadan* v. *The King*, as interpreted in *British Coal Corporation* v. *The King*, to hold that legislation intended to prevent the exercise of the prerogative in relation to the judgments of Canadian Courts is not
p. 130, l. 17 legislation in relation to a local matter in that sense. With reference to
to p. 131, l. 7 Clause 13 of Section 92, he said that as the subject-matter of administration of justice including jurisdiction of provincial courts is specifically dealt with in Clause 14, if the particular matter with which we are now concerned does not fall within the ambit of Clause 14, it must be taken to be excluded from the general Clause 13 as well as the residuary Clause 16 and, for an application of this principle, he referred to the interpretation of Clause 11 " the incorporation of companies with provincial objects " in *Bonanza* v. *The King*, 1916 1. A.C. 566. With reference to Clause 16, he said that whatever ancillary powers the provinces may possess in virtue of that

clause they could only be ancillary to the local matters comprised in the preceding clauses and they could only be exercised in relation to " matters of a merely local or private nature within the province." With reference to Clause 1 of Section 92, he said that the exception " the office of the Lieutenant Governor " points to the subject-matter and scope of the clause, that the term " provincial constitution " is employed as a heading of Title V which deals with executive government and legislative institutions and that there is nothing in the enactments of the earlier title supporting the contention that Clause 1 of Section 92 can be read as enlarging the authority of the legislature under the other clauses of that section or as freeing the legislature from the restrictions imposed by those clauses. Coming to the question as to whether Section 101 imports an ambit of legislative authority that embraces the power to endow the court constituted under it with " ultimate and exclusive " jurisdiction in respect of appeals from provincial courts, he said that " *Prima facie*, the authority " is to make legislative provision for a court which shall have general " authority as a court of appeal for Canada; and to provide for the " constitution and organization of that court " and that " This necessarily " involves the power to subject every court of judicature or of public " justice to the appellate jurisdiction of the court so to be constituted." He said that the section, until it is acted upon by Parliament, subtracts nothing from the legislative authority of the provinces, but when the Court is constituted and its jurisdiction and powers are defined by Dominion legislation, such legislation takes effect according to its scope and purport notwithstanding anything in the Confederation Act or anything done under that Act. It is, he said, involved, without qualification, in the very words of the section that it is competent to Parliament to give jurisdiction to entertain an appeal in any and every case in which it thinks fit to do so, and in any and every case to require the court appealed from to carry out any judgment pronounced upon the appeal and he asks whether there is to be implied a constitutional exception imperatively exempting from the operation of legislation under the section judgments or decisions from which, by the existing law, appeal may be taken or may have been taken to the Judicial Committee. He thought that it is of first importance to notice that in ascertaining what powers are derived from the section you are to give effect to its language " notwithstanding anything in this Act," and that, since the Statute of Westminster, he could not, without disregarding the reports of the Imperial Conferences recited therein, imply such a qualification and he said that the governing object of Section 101 being to invest the Parliament of Canada with legislative authority to endow a court of appeal for Canada with general appellate jurisdiction over all courts in Canada and with power to give complete effect to the judgments of that court, all subsidiary powers must be implied to enable Parliament to legislate effectively for that object. Three considerations seemed to the learned Chief Justice to be decisive, viz. :—

RECORD

p. 131, ll. 8-19

p. 131, l. 20

p. 131, l. 46 to p. 132, l. 3

p. 132, l. 4

p. 132, l. 19

p. 132, ll. 25-37

p. 132, l. 38 to p. 133, l. 21

" (a) Since this legislative authority may be executed in Canada ' notwithstanding anything in this Act,' you cannot imply any

RECORD

restriction of power because of anything in Section 92. Assuming even that Section 92 gives some authority to the legislatures in respect of appeals to the Privy Council, that cannot detract from the power of Parliament under Section 101. Whatever is granted by the words of the section, read and applied as *prima facie* intended to endow Parliament with power to effect high political objects concerning the self-government of the Dominion (Section 3 of the B.N.A. Act) in the matter of judicature, is to be held and exercised as a plenary power in that behalf with all ancillary powers necessary to enable Parliament to attain its objects fully and completely. So read it imports authority to establish a court having supreme and final appellate jurisdiction in Canada ;

" (b) Since, in virtue of the words of Section 101, Parliament may legislate for objects within the ambit of Section 101 regardless of any powers the provinces may possess to affect appeals to the Judicial Committee, it follows that the general power of Parliament to make provision for the peace, order and good government of Canada in relation to such objects is in no way limited by the exception of ' local matters ' assigned exclusively by the introductory words of Section 91 to the legislatures of the provinces ; and, consequently, no existing judicial authority competent to affect the course of judicature in Canada can be an obstacle precluding the Parliament of Canada from making its legislation relating to these objects effective ;

" (c) Having regard to the reports of the Imperial Conferences recited in the Statute of Westminster, to the provisions of that statute, and to the terms of Section 101, you cannot properly read anything in the Statute of Westminster or in the B.N.A. Act as precluding Parliament, for the purpose of effecting its objects within the ambit of that section from excluding from Canada the exercise of jurisdiction by a tribunal constituted, organised and exercising jurisdiction under the exclusive authority of another member of the British Commonwealth of Nations."

p. 133, l. 22 The exercise of appellate jurisdiction for Canada by a tribunal exclusively subject to the legislation of another member of the Commonwealth is not, he said, a subject which can properly be described as a matter merely local or private within a province and the power to make laws for the peace, order and good government of Canada in relation to matters within Section 101 being without restriction, the power of Parliament in such matter is paramount. (*Aeronautics Reference*, 1932 A.C. 54 and *Radio Reference*, 1932 A.C. 304.) As to appeals from the Supreme Court of Canada or additional courts established under Section 101, he said that since the provinces can have no jurisdiction they fall within the general power in relation to peace, order and good government.

p. 133, l. 38 to p. 134, l. 8 14.—Coming to " the appeal as of right " the learned Chief Justice thought it was more accurate to say that the Acts of 1833 and 1844

affirmed and regulated the exercise of His Majesty's prerogative in relation to appeals than to say that His Majesty's prerogative merged in the statutory powers of the Judicial Committee. It resulted, he thought, from Section 92 of the British North America Act, *Nadan* v. *The King* and the *British Coal Corporation* v. *The King*, that before the Statute of Westminster neither the Parliament of Canada nor the legislature of a province could subtract from or add to the jurisdiction of the Judicial Committee. The legislation of Ontario and Quebec touching this subject, the Orders in Council affecting the other provinces and the rather special position of British Columbia had, he said, to be considered. With reference to Ontario and Quebec, he referred to *Cushing* v. *Dupuy* (1880) 5 A.C. 409, where it was held that Dominion insolvency legislation could, unless it infringed the prerogative, validly preclude an appeal in insolvency proceedings under Quebec legislation, if valid, giving an appeal as of right and he said that is is quite plain, following *Nadan* v. *The King* as interpreted by the *British Coal Corporation's* case, that neither the legislature of a province nor the Parliament of Canada could, in 1867 nor in 1875, enact laws binding upon His Majesty respecting his appellate jurisdiction and that it must consequently be held that the Quebec and Ontario legislation relating to Privy Council appeals is not, and cannot be, legislation upon the subject of His Majesty's jurisdiction but is legislation in relation to procedure in the provincial courts giving directions to such courts as to proceedings that may be taken in them in respect of appeals to His Majesty. If, he said, the Royal Proclamation of 1763 created jurisdiction, no legislature in Canada had, prior to the Statute of Westminster, authority to abrogate that jurisdiction and the powers of the provinces have not since been enlarged because the jurisdiction is not a local matter within Section 92 and the same considerations apply to British Columbia in so far as regards the statute of 1858. The orders in Council under the Privy Council Act of 1844 regulating the exercise of the jurisdiction of the Privy Council in the provinces other than Ontario and Quebec cannot, he said, be abrogated by the provinces in so far as the jurisdiction of the Judicial Committee would be impaired and it is only with this jurisdiction that we are concerned " because jurisdiction is the subject matter of this Bill." If the subject matter of the Ontario statute really is the jurisdiction of the Judicial Committee, it is, he said, invalid and probably it ought to be read as a declaration that the rights given under the statute, whatever they may be, apply only in the cases specified.

RECORD

p. 134, l. 9

p. 135, l. 31

p. 135, l. 41

p. 136, l. 8

15.—The learned Chief Justice concluded by expressing the opinion : p. 137, l. 4

" First, that since, by the Statute of Westminster, the obstacles have been removed which prevented the Parliament of Canada giving full effect to legislation for objects within its powers affecting the appeal to His Majesty in Council, there is now full authority under the powers of Parliament in relation to the peace, order and good government of Canada in respect of the objects within the purview of Section 101 to enact the Bill in question.

RECORD

p. 137, l. 10 " Secondly, that neither the prerogative power of His Majesty to admit appeals from Canadian courts, nor the exercise of that power in admitting such appeals, nor the jurisdiction of the statutory tribunal, the Judicial Committee of the Privy Council, in respect of such appeals, or in respect of appeals as of right, is subject matter for the legislative jurisdiction of the provinces as comprised within the local matters assigned to the legislatures by Section 92, and all such matters are, therefore, within the general authority in relation to peace, order and good government."

and held that the answer to the question is that Bill 9 is *intra vires* of the Parliament of Canada in its entirety.

pp. 137-140 16.—The Honourable Mr. Justice Rinfret (as he then was) was of
p. 137, l. 33 opinion that the question should be answered in the affirmative. He said that the powers distributed between the Dominion and the provinces cover " the whole area of self-government within the whole area of Canada " (*Attorney-General for Ontario* v. *Attorney-General of Canada*, 1912 A.C. 571, 581 and 584), that since the Statute of Westminster, 1931, and the *British Coal Corporation* v. *The King*, 1935 A.C. 500, 521, it must now be taken as
p. 137, l. 41 to p. 138, l. 7 settled that appeals from Canadian Courts to the King in Counci are " essentially matters of Canadian concern, and the regulation and control " of such appeals would seem to be a prime element in Canadian sovereignty " as appertaining to matters of justice " and that it follows that the real question for decision therefore is whether the power to constitute the Supreme Court of Canada the ".exclusive, ultimate " appellate court and to prohibit all appeals to His Majesty in Council is within the legislative competence of the Dominion Parliament or of the provincial legislatures.
p. 138, l. 22 If the matter of appeals to the Privy Council be within the legislative competence of the provinces, it must, he said, fall under head (14) of Section 92 for the several compartments of Section 92 cannot overlap and " it must be obvious that head (14) excludes the others." He said
p. 138, l. 26 that the controlling words in head (14) are " The administration of justice in the Province." The words, he said, are not " in respect of or for the provinces " ; they restrict the power to the administration of justice " in the province " and these words cannot include matters of appeal to the Privy Council in London (*Royal Bank* v. *The King*, 1913 A.C. 283 ; *Brassard* v. *Smith*, 1925 A.C. 371 ; and *Attorney-General of Alberta* v. *Kerr*,
p. 138, l. 32 1933 A.C. 710). With reference to the balance of head (14), he said that obviously it cannot have any reference to His Majesty in Council or to the Judicial Committee of the Privy Council. *Nadan* v. *The King*, 1926 A.C. 482 and the *British Coal Corporation* case, he said, are decisive of the point.
p. 139, ll. 18-39 These two decisions, he said, decided that previous to the Statute of Westminster the Dominion Parliament could not effectively deal with the whole question of the appeals to the Privy Council because it had not then the power to make laws having extra-territorial operation, and *a fortiori* provincial legislatures could not effectively legislate with regard thereto and as they continue as before to have no legislative capacity to make any

law having extra-territorial operation, they have no power to deal with the matter of appeals to the Privy Council. Not being within the legislative competence of the provinces, the matter, he said, must fall necessarily within the competence of the Dominion Parliament. The result is, he said, supported by Section 101 which confers legislative authority on the Dominion that is " exclusive, paramount and plenary " and cannot be taken away or impaired by provincial legislation (*Crown Grain Co.* v. *Day*, 1908 A C. 504). The court is " a general Court of Appeal for Canada " and the Dominion Parliament, he said, may exclusively determine its appellate jurisdiction. He said that one of the principal functions of a general Court of Appeal is to settle jurisprudence and that object fails completely if it is not the final and ultimate Court of Appeal and that there is no sound ground for the suggestion that legislation by Parliament directed to that purpose would not be legislation relating to the constitution, maintenance and organisation of the Supreme Court of Canada in its character as a general Court of Appeal for Canada.

RECORD

p. 139, l. 40 to p. 140, l. 4

p. 140, l. 5

17.—The Honourable Mr. Justice Crocket said that the real purpose of Bill No. 9 is to give the Supreme Court of Canada " exclusive ultimate appellate civil and criminal jurisdiction within and for Canada " and that to accomplish this purpose the Bill itself recognises that it requires to make an end of the Sovereign's prerogative to grant special leave to appeal to the Privy Council from any judgment of the courts in any of the provinces and to annul every statute and law under which appeals may be taken as of right to the Judicial Committee in certain cases. The answer to the contention that the Bill would have extra-territorial operation was, the learned Judge thought, that, insofar as the direct right of appeal provided by the Quebec and Ontario statutes and by Orders in Council in the other provinces is concerned, Bill 9's only effective operation would be the virtual repeal of these provincial statutes and Orders in Council which manifestly could have effect only in Canada and that this would also be true of the proposed abrogation of the royal prerogative because the exercise of the royal prerogative cannot in any sense be said to be localised. (*Hull* v. *McKenna*, I.R. 1926 at p. 404.) He said that the decision in *British Coal Corporation* v. *The King* was based on Dominion jurisdiction in relating to " Criminal Law, including procedure in Criminal cases," and does not extend to appeals in relation to classes of subjects which the British North America Act has assigned exclusively to the Legislatures of the Provinces, that Section 3 of the Statute of Westminster respecting the power of Parliament to make laws having extra-territorial operation could not reasonably be held to apply to such a matter as the royal prerogative to grant leave to appeal and that, by the operation of subsection 3 of Section 7 of that Statute, Section 3 could not well be held to confer upon Parliament any power to make laws in relation to matters not within Parliament's competence at the time it was passed. (*Croft* v. *Dunphy*, 1933 A.C. at p. 163.) He held that the proposed enactment concerns the administration of justice in all the provinces of Canada, that

pp. 140-158

p. 140, l. 27

p. 142, ll. 11-44

p. 142, l. 45 to p. 145, l. 6

p. 145, l. 7 to p. 147, l. 35

p. 147, l. 36 the general words " The Administration of Justice in the Province " in head (14) of Section 92 are not limited by the latter part of head (14) (*Regina* v. *Bush*, 15 O.R. at p. 403) and that the residuary power of the Dominion Parliament cannot therefore be invoked in support of the Bill.

p. 150, l. 27 He said that while the unrestricted power in Section 101 to constitute and organise a court necessarily implies power to define its jurisdiction and to provide for the regulation of its procedure and the exercise of such a power directly concerns the administration of justice, Section 101 and Section 92 (14) are two apparently conflicting enactments and must be read together and so interpreted as to give, as far as possible, reasonable and practical effect to each. He concluded that when this is done the

p. 157, l. 22 to p. 158, l. 26 subject-matter of Bill No. 9 is not comprised in the language of Section 101. The learned Judge was therefore of opinion that Bill No. 9 should be declared to be wholly *ultra vires* of the Parliament of Canada.

pp. 158–161 18.—The Honourable Mr. Justice Davis said that it is plain from the decision in the *Nadan* case, 1926 A.C. 482, the *Irish Free State* case, 1935 A.C. 484, and the *British Coal Corporation* case, 1935 A.C. 500, that

p. 159 " (1) before the passing of the Statute of Westminster 1931 it was not competent to the Dominion to pass an Act repugnant to an Imperial Act,

" (2) the effect of the Statute of Westminster was to remove the fetters which lay upon the Dominion by reason of the Colonial Laws Validity Act and by Section 129 of the British North America Act and also by the principle or rule that the Dominion's powers were limited by the doctrine forbidding extra-territorial legislation, and

" (3) whatever might be the position of the King's prerogative if it were left as matter of the common law, it may by appropriate action be made matter of Parliamentary legislation so that the prerogative is pro tanto merged in the statute."

He said that the judgment in the *British Coal Corporation* case rests upon the fact that criminal law is one of the enumerated heads of Section 91 of

p. 159, l. 28 the British North America Act and that the same result follows in respect of Dominion legislation in relation to matters properly within any of the other subjects enumerated in Section 91 or within the general power of Parliament to make laws for the peace, order and good government of

p. 160, l. 8 Canada. The proposed abolition of appeals to the Privy Council is not, he said, legislation in relation to the administration of justice " in the province " nor, he said, can head 13 of Section 92 " Property and Civil Rights in the Province " be regarded as controlling the Dominion power in relation to matters within the exclusive legislative authority of

p. 160, l. 43 Parliament. He held, however, that the Statute of Westminster does not make it competent to the Dominion to legislate in relation to the classes of subjects which before the statute were outside its competence, and that

p. 161, l. 5 Section 101 of the British North America Act cannot be interpreted so as to extend power to the Parliament of Canada to make the jurisdiction

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of the court contemplated thereby exclusive and final in relation to subject-matters which are within the sole legislative authority of the provincial legislatures. He recognized that there may be difficulty at p. 161, l. 11 times in working out a division of legislative authority in appeals in civil cases but he said that that is inherent in the practical working out of a federal system with a division of legislative power. He would, therefore, p. 161, l. 19 have answered the question by saying that the Bill would be within the legislative authority of Parliament if amended to provide that nothing therein contained shall alter or affect the rights of any province in respect of any action or other civil proceeding commenced in any of the provincial courts and solely concerned with some subject-matter, legislation in relation to which is within the exclusive legislative competence of the legislature of such province.

19.—The Honourable Mr. Justice Kerwin considered, first, appeals pp. 161–174 from Dominion courts established under Section 101. He said that the p. 164, l. 15 combined effect of Section 2 and Section 3 of the Statute of Westminster is to remove the fetters that previously prevented Parliament from abolishing the right of the Judicial Committee to grant leave to appeal from a judgment of a Dominion court and that in view of the plain wording p. 164, l. 18 of Section 101 the provinces enjoyed no such powers. With reference to the appeal as of right from a Dominion court, he said that, subject to the special position of appeals in Admiralty, this power existed and was recognised even before the Statute of Westminster (*British Coal Corporation* case, 1935 A.C. at p. 520). With reference to appeals in Admiralty, he p. 165, l. 18 said that Parliament has jurisdiction under head 10 of Section 91 over the subject matter of " Navigation and Shipping " and that it could therefore invest the Exchequer Court with jurisdiction over actions and suits in relation to that subject-matter (*Consolidated Distilleries Limited* v. *The King*, 1933 A.C. 508 at p. 522). With reference to appeals from provincial courts, by the very terms of Section 92 (14), he said, " the " administration of justice is confined to the provinces, the Courts which " the Provincial Legislatures are authorised to constitute, maintain and " organise are Provincial Courts, and the procedure in civil matters is " confined to those, i.e. Provincial Courts." He said that neither His Majesty in Council nor the Judicial Committee can in any sense of the term be deemed " Provincial Courts " and that the legislatures are still territorially restricted. As to head 13, he said that the effective part of p. 171, ll. 9–16 the proceeding is the hearing and determination of the appeal which are not rights in the province, that, following the decision in *Brassard* v. *Smith*, 1925 A.C. 371, unless all the elements of the right exist in the province head 13 can have no application and that if the provinces have not power under head 14 it is difficult to see how head 13 can have any p. 171, application because the limitation " in the province " in head 14 would ll. 20–31 have no application if the power under head 13 to enable an appeal to be launched carried with it the power to permit or abolish its hearing and determination (*John Deere Plow Company, Limited* v. *Wharton*, 1915

p. 171, l. 32 to p. 172, l. 3 A.C. 330 at p. 340). As to head 1 of Section 92 he showed that the word "constitution" is used in different senses throughout the Act and said that in this head it refers, as to the executive power, to such things as the appointment of Lieutenant Governors and Provincial Administrators and, as to the legislative power, to such things as the legislatures for the provinces. He said that if a province did not possess the authority, it must necessarily reside in the Dominion. He referred to the opening words of Section 91 and to Section 101 and said that in his opinion the power thereby conferred includes the power to make the decision of the appellate court exclusive and ultimate. With reference to the Ontario contention that, its pre-Confederation legislation having been continued in force by Section 129 of the British North America Act, Ontario had the power to abolish the appeal, he said that, granting its correctness, Parliament's power to make the decision of the Supreme Court of Canada exclusive and ultimate may be exercised "notwithstanding anything contained in this Act" and that this *non obstante* clause places the Dominion power on the same footing as those conferred by the specially enumerated heads of Section 91. (*Proprietary Articles Trade Association* v. *Attorney-General of Canada*, 1931 A.C. 310 at pp. 326–7; *Crown Grain Company Limited* v. *Day*, 1908 A.C. 504 at pp. 506 and 507; *Attorney-General of Canada* v. *Attorney-General of British Columbia*, 1930, A.C. 111 at p. 118; and *In re Silver Brothers*, 1932 A.C. 514 at p. 521). He said that Quebec is in the same position as Ontario, that British Columbia is in no better position and that his conclusion with reference to the other six provinces adds force to the opinion as to these three provinces as it could surely not have been intended that in a matter of this kind three provinces should be able to exercise a power denied to the others. He said therefore that he would answer the question "Yes, in its entirety."

p. 172, ll. 4–25

p. 172, ll. 26–44

p. 172, l. 44 – p. 173, l. 19

p. 174, ll. 8–26

pp. 174–182 p. 175, l. 12

20.—The Honourable Mr. Justice Hudson pointed out that the provinces have defined the constitution of their several courts under head (14) of Section 92, that the judges of the courts must be appointed by the Dominion, that the laws administered in the provincial courts are the laws applicable to the causes coming before them whether these laws be within the legislative competence of the Province or of the Dominion, that the Dominion may impose additional duties on the judges and utilise the courts to enforce Dominion laws of a special character (*Langlois* v. *Valin* 5 A.C. 115 and *Cushing* v. *Dupuy*, 5 A.C. 409) and that from final decisions of the Provincial Courts an appeal lies to the Supreme Court of Canada which has been established under Section 101 of the British North America Act. After quoting from the judgment in *British Coal Corporation* v. *The King* to the effect that it was there "neither necessary nor desirable "to touch on the position as regards civil cases" he said that the reasons for arriving at that judgment lead inevitably to the conclusion that the Canadian Parliament has a right to abolish any right to appeal to the Judicial Committee in any matter falling within the legislative jurisdiction of the Dominion Parliament, including an appeal from the Supreme Court

p. 175, l. 22

p. 176, l. 28

of Canada in any matter whatsoever. With reference to appeals from the decisions of provincial courts where the law involved is within the exclusive legislative jurisdiction of the provinces, the learned judge pointed out that the Judicial Committee Acts of 1833 and 1844 did not change the character of the jurisdiction. He said that at Confederation many of the royal prerogatives were distributed among the Dominion and the provinces largely in accordance with the distribution of legislative power but that there remained some prerogatives, sometimes referred to as "Imperial prerogatives," which did not pass either to the Dominion or to the provinces. The Imperial prerogatives during the past few decades, he said, have, with the broadening of Dominion status, passed progressively under Dominion control in so far as they affect Canadian affairs, for example His Majesty now makes a declaration of war so far as it affects Canada on the advice of His Canadian Ministers and any alteration made in the succession to the Throne is made subject to the approval of the Dominion and the prerogative of appeal is the only one affecting Canadian affairs that continues to be exercised without the active participation of the Dominion. There having been two initial legal obstacles in the way of Dominion legislation abrogating this particular prerogative, namely, that such legislation would be repugnant to the Judicial Committee Acts of 1833 and 1844 and would be in the nature of extra-territorial legislation (*Nadan* v. *The King*, 1926 A.C. 482), these obstacles were, he said, removed by the Statute of Westminster (*British Coal Corporation* case). With reference to the contention of a majority of the provinces that whatever remains of this prerogative is something in which they have rights and, for that reason, cannot be taken away by the Canadian Parliament, he held that the only relevant head of provincial legislative jurisdiction is head 14 of Section 92. He said that the controlling phrase "the "Administration of Justice in the Province" would in its natural sense mean the enforcement of justice according to law in the Province, that those words would imply authority to provide machinery necessary for that purpose but that they would not imply making law. He says that they might or might not imply the creation of courts for the interpretation and application of law but that the following words, that is "including "the constitution, maintenance and organization of Provincial Courts, "both of civil and of criminal jurisdiction, and the procedure in civil "matters in those courts" make clear the extent and limitation of such implication, with the result that it is obvious that the Provincial Courts must be courts functioning within the province whose jurisdiction is limited to the territorial boundaries of the Province. He said that the administration of justice means the enforcement of all justice according to law, civil and criminal, Dominion and Provincial, and that the judges of the court who are to interpret and apply the law for the purposes of such administration in the Province are to interpret and apply both Dominion and Provincial laws, and this in fact is what is done. Although called provincial courts, they are, he said, in truth created by joint action, by and for the benefit of both jurisdictions and the composition of the courts

p. 176, l. 33

p. 178, l. 25

p. 179, l. 22

p. 179, l. 34

RECORD

and the character of the business entrusted to them rebut any implication there might be that a province has a right to control appeals therefrom
p. 180, l. 4 to any external tribunal. He said that while Section 3 of the Statute of Westminster removed the objection of extra-territoriality so far as it affected the Dominion it still subsists in the case of the provinces. Furthermore, he said that as head 14 is the compartment dealing with the subject-matter it would exclude application of head 1 or 13 of Section 92.
p. 180, ll. 15–40 With reference to Section 129, he said that its obvious purpose was to provide for continuity of law and administration until the new Parliament and new legislatures were able to function and that the introductory words " Except as otherwise provided by this Act " made it plain that it was not intended to alter the distribution of powers. As none of the heads of Section 92 confer power on the provincial legislatures to abolish the right of appeal, the reserve powers of the Dominion, he said, would come
p. 180, l. 41 automatically into operation. He said it was unnecessary to discuss the argument based on provincial legislation under the Constitutional Act of 1791 but he did observe that it must never be overlooked that with the passing of the British North America Act there was a new orientation of
p. 181, l. 4 powers, prerogative as well as legislative. With reference to Section 101, he pointed out that it had been held in *Crown Grain* v. *Day*, 1908 A.C. 504, that a provincial Act cannot circumscribe appellate jurisdiction granted by the Dominion Act and he said that reading the group of sections in the British North America Act in which Section 101 appears, it seemed to him that there is envisaged ultimate establishment of a complete system of judicature within Canada with a final general court of appeal of last resort in Canada and that this should be established when and with whatever jurisdiction Parliament might from time to time decide. The words
p. 182, l. 3 " a general court of appeal for Canada " surely imply, he said, only one court of appeal and it would appear to be anomalous that there should be
p. 182, l. 6 concurrently a right of appeal to two different courts. This situation, he said, could not be effectively corrected until the passing of the Statute of Westminster because of external constitutional limitations and these having been removed, he could see no reason why the Dominion should not exercise the full powers given by Section 101 either expressly or impliedly and make the decisions of the Supreme Court of Canada final and conclusive and without appeal. For these reasons he would answer the question submitted in the affirmative and say that a Bill in substantially the form of Bill No. 9 would be *intra vires* the Parliament of Canada.

21.—The Honourable Mr. Justice Crocket and the Honourable Mr. Justice Davis erred, it is submitted, in regarding appeals to the Judicial Committee as being divisible in so far as legislative authority is concerned by reference to the law involved in a particular cause. Actions between subject and subject are not infrequently governed by rules of law within the legislative competence of Parliament, as well as those within the legislative competence of a provincial legislature. Such a division is impracticable and is not envisaged by the British North America Act

which speaks only of procedure in criminal matters and procedure in civil matters in provincial courts.

22.—The real subject matter of Bill 9 is the creation of a general court of appeal for Canada with exclusive and ultimate appellate jurisdiction. This is a matter that goes beyond local or provincial concern or interests and must from its inherent nature be the concern of Canada as a whole. It therefore falls within the competence of the Parliament of Canada as a matter affecting the peace, order and good government of Canada. *Attorney-General of Ontario* v. *The Canada Temperance Federation* (1946) A.C. 193.

23.—It is submitted on behalf of the Attorney-General of Canada that the judgment of the Supreme Court of Canada is right and ought to be affirmed and that the appeal therefrom ought to be dismissed for the reasons stated in the reasons for judgment delivered by the majority of the judges of the Supreme Court and for the following amongst other

REASONS.

1. Because Bill 9 is within the powers of the Parliament of Canada under Section 101 of the British North America Act, 1867, as legislation providing for the constitution of a general Court of appeal for Canada, which legislation is valid notwithstanding any other provision in the said Act ;

2. Because Bill 9 is within the powers of the Parliament of Canada under Section 101 of the British North America Act, 1867, as legislation ancillary or incidental to providing for the constitution of a general court of appeal for Canada, which legislation is valid notwithstanding any other provision in the said Act ;

3. Because Bill 9 is within the powers vested in the Parliament of Canada by Section 91 of the British North America Act, being legislation for the peace, order and good government of Canada which does not relate to any matter coming within the classes of subjects assigned exclusively to the legislatures of the provinces by Section 92 inasmuch as

   (a) it relates to the jurisdiction of two courts, the Supreme Court of Canada and the Judicial Committee, neither of which is a provincial court, and the provincial legislatures are, by head 14 of Section 92, restricted as far as courts are concerned to provincial courts,

   (b) it relates to appeals to the Privy Council, which is not a provincial court, appeals are a matter of " procedure "

and the provincial powers with reference to procedure are, by head 14 of Section 92, restricted to procedure in provincial courts,

(c) it relates to the administration of justice but not in any province to the administration of justice "in the province" and the provincial powers with reference to administration of justice are, by head 14 of Section 92, restricted to administration of justice in the province,

(d) it does not relate to a matter of merely private, local or provincial concern and does not come within head 1, 13 or 16 or any of the other heads of Section 92,

(e) it has extra-territorial operation and is therefore outside the classes of subjects defined by Section 92,

(f) it relates to Canada's relations as a member of the British Commonwealth of Nations and thus to the peace, order and good government of Canada as a whole and not to any mere provincial or local interest, and

(g) it relates to the setting up of a court with exclusive ultimate appellate jurisdiction in Canada, which is a matter that goes beyond local or private concern and from its inherent nature is the concern of Canada as a whole ;

4. Because the Parliament of Canada has, by Section 2 of the Statute of Westminster, power to repeal Acts of the Parliament of the United Kingdom and orders made under such Acts insofar as the same are part of the law of Canada ; and

5. Because the Parliament of Canada has, under Section 3 of the Statute of Westminster, power to make laws having extra-territorial operation while the provincial legislatures have no such power.

AIMÉ GEOFFRION.

W. R. JACKETT.

In the Privy Council.

No. 26 of 1940.

ON APPEAL FROM THE SUPREME COURT OF CANADA.

IN THE MATTER of a Reference as to the legislature competence of the Parliament of Canada to enact Bill No. 9 of the Fourth Session, Eighteenth Parliament of Canada entitled "An Act to amend the Supreme Court Act."

BETWEEN

THE ATTORNEY-GENERAL OF ONTARIO, THE ATTORNEY-GENERAL OF BRITISH COLUMBIA, THE ATTORNEY-GENERAL OF NEW BRUNSWICK AND THE ATTORNEY-GENERAL OF NOVA SCOTIA *Appellants*

AND

THE ATTORNEY-GENERAL OF CANADA, THE ATTORNEY-GENERAL OF MANITOBA AND THE ATTORNEY-GENERAL OF SASKATCHEWAN ... ... *Respondents*

AND

THE ATTORNEY-GENERAL OF QUEBEC *Intervening.*

CASE OF THE ATTORNEY-GENERAL OF CANADA

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