

In the Privy Council.

No. 100 of 1936.

ON APPEAL FROM THE SUPREME COURT OF CANADA.

IN THE MATTER of a Reference as to whether the Parliament of Canada had legislative jurisdiction to enact the Weekly Rest in Industrial Undertakings Act, being Chapter 14 of the Statutes of Canada 1935 ; The Minimum Wages Act, being Chapter 44 of the Statutes of Canada 1935 ; and the Limitation of Hours of Work Act, being Chapter 63 of the Statutes of Canada 1935.

BETWEEN

THE ATTORNEY-GENERAL OF CANADA *Appellant,*

AND

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

CASE OF THE RESPONDENT

THE ATTORNEY-GENERAL OF ONTARIO.

1. This is an appeal from the judgment of the Supreme Court of Canada delivered on Wednesday, the 17th day of June, A.D. 1936, answering certain questions referred to it by His Excellency the Governor-General in Council for hearing and consideration touching the powers of the Parliament of Canada under the British North America Act 1867, to enact the Weekly Rest in Industrial Undertakings Act, being Chapter 14 of the Statutes of Canada 1935 ; the Minimum Wages Act, being Chapter 44 of the Statutes of Canada 1935 ; and the Limitations of Hours of Work Act, being Chapter 63 of the Statutes of Canada 1935.

Record.
p. 91.
p. 2, l. 18, et
seq.

Record. 2. The questions referred to and the answers of the Court are the following :—

p. 91, l. 38. Question 1. “Is the Weekly Rest in Industrial Undertakings Act, “or any of the provisions thereof and in what particular or particulars or “to what extent, *ultra vires* of the Parliament of Canada ?

Question 2. “Is the Minimum Wages Act, or any of the provisions “thereof and in what particular or particulars or to what extent, *ultra* “*vires* of the Parliament of Canada ?

Question 3. “Is the Limitation of Hours of Work Act, or any of “the provisions thereof and in what particular or particulars or to what 10 “extent, *ultra vires* of the Parliament of Canada ?”

p. 92, l. 31. Answer. “The Chief Justice, Mr. Justice Davis, and Mr. Justice “Kerwin are of the opinion that (except as to Section 6 of the Minimum “Wages Act) the Statutes are *intra vires* ; Mr. Justice Rinfret, Mr. “Justice Cannon and Mr. Justice Crocket are of the opinion that the “Statutes are *ultra vires*.”

3. The Attorney-General of Ontario submits that the answers of the Chief Justice, Mr. Justice Davis and Mr. Justice Kerwin holding that the Statutes are *intra vires* of the Parliament of Canada (except as to Section 6 of the Minimum Wages Act) is wrong and should be reversed (except as to 20 Section 6 of the Minimum Wages Act) upon the ground that the Dominion Parliament has no power to pass such acts under the provisions of Section 132 of the British North America Act.

p. 115, l. 10, et seq. 4. The Attorney-General of Ontario submits that the judgment of the Honourable Mr. Justice Rinfret is correct and should be affirmed wherein he states that,

p. 123, ll. 16-22. (1) “In my opinion the draft conventions upon which is based the “legislation now submitted to us have not been properly and com- “petently ratified, that they could not be so ratified without the consent “of the Legislature in each Province, both by force of the British North 30 “America Act and upon the proper interpretation of Article 405 of the “Treaty of Versailles ; and that, for that reason, the Acts now submitted “are *ultra vires* of the Parliament of Canada, ”

and wherein he states in his judgment that

p. 119, ll. 42-48. (2) “These conventions are not treaties within the meaning of “Section 132 of the British North America Act, more particularly as “the word was understood at the time of the adoption of the Act by “the Imperial Parliament. Moreover, they are not treaties between “the Empire and Foreign countries in respect of which ‘obligations of “‘Canada or of any Province thereof as part of the British Empire 40 “‘towards foreign countries’ might have arisen. Consequently, Section “132 in terms does not apply to these conventions.”

p. 123, l. 26, et seq. p. 130, l. 40, et seq. 5. The Attorney-General of Ontario further submits that the judgment of the Honourable Mr. Justice Cannon and Mr. Justice Crocket are correct and should be affirmed for the reasons set out in the said judgment and

Also for the following

REASONS.

- (A) For the reasons advanced by the Attorney-General of Ontario in his factum before the Supreme Court of Canada (in so far as such legislation is based on the treaty making power under Section 132 of the British North America Act).
- (B) For the reasons set out in the judgments of Mr. Justice Cannon and Mr. Justice Crocket in so far as such legislation is based on the treaty making power under Section 132 of the British North America Act.
- (C) For such other reasons as may be advanced in argument by Counsel.

6. The Respondent, the Attorney-General for Ontario, however, submits that the legislation in question is *intra vires* of the Dominion Parliament under the power conferred by Section 91 of the British North America Act to make laws for the peace, order and good government of Canada.

REASONS.

- (A) For the reasons advanced by the Attorney-General of Ontario in his factum before the Supreme Court of Canada.
- (B) For such other reasons as may be advanced by Counsel.

A. W. ROEBUCK.

I. A. HUMPHRIES.

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CASE OF THE RESPONDENT

THE ATTORNEY-GENERAL OF ONTARIO.

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