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Supreme Court of Canada

Quebec Timber Co., Re

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In re THE QUEBEC TIMBER COMPANY

Sir William Ritchie, C.J., and Fournier, Henry, Tashereau and Gwynne, JJ.

Judgment: March 27 and 30, 1882

Docket: S. C. File No. 272

Subject: Constitutional

Headnote

Constitutional law — Legislative jurisdiction — Incorporation of trading companies — Foreign corporations — Judicial opinions on references — Private rights — 45 Vict. c. 119 (D.).

It is inexpedient that opinions should be given upon matters referred for examination and report under the provisions of the Supreme and Exchequer Courts Act, where the questions may affect private rights that may come before the court judicially, and which ought not to be passed upon without a trial.

The objects for which the company in question was incorporated, by the statute 45 Vict. ch. 119, are within the jurisdiction of the Canadian Parliament, and are out of the exclusive jurisdiction of provincial legislatures, and consequently such a company may be incorporated by Parliament.

REFERENCE made by resolution of the Senate of Canada, on 24th March, 1882, under the provisions of section 53 of "The Supreme and Exchequer Courts Act," 38 Vict. ch. 11 (R. S. C. c. 135, s. 38).

Subject:

A bill intituled "An Act to incorporate the Quebec Timber Company (Limited)," for the incorporation of a manufacturing and trading company with powers to transact business throughout the Dominion of Canada, was referred by the Select Committee of the Senate of Canada on Standing Orders and Private Bills to a sub-committee, which recommended that the Senate should, under its 55th rule, refer the matter to the Supreme Court of Canada.

On motion, it was ordered that the said report should be adopted, and the bill referred as recommended.

The reference was accordingly made and transmitted for examination and report thereon, and more particularly upon the questions following: —

1. Whether a company already incorporated under the 'Companies Act of 1862 to 1880,' of the Imperial Parliament, for the purposes mentioned in the bill, has a legal corporate existence in Canada; and, if so, whether a second corporate existence can, upon its own application as a company, be given to it by the Canadian Parliament?
2. Whether the objects for which incorporation is sought are such as take the bill out of the exclusive jurisdiction of the Legislature of the Province of Quebec?

The Court:

1 having examined the bill, and taken it into consideration, reported thereon to the Senate as follows: —

2 As to the first part of the first question submitted, namely, "Whether a company already incorporated under 'The Companies Act of 1862 to 1880,' of the Imperial Parliament, for the purposes mentioned in the bill, has a legal corporate existence in Canada?" The court pray to be excused from answering this question, on the ground that the question affects private rights which may come before it judicially, and which ought not to be passed upon without a trial.

3 As to the second part of the question, "Whether a second corporate existence can, upon its own application as a company, be given to it by the Canadian Parliament?" — this court presumes means — Whether the Dominion Parliament can give the company corporate existence in Canada? The court are of opinion that the Dominion Parliament can incorporate such a company for objects coming within the jurisdiction of the Parliament of the Dominion.

4 And, as to the second question (above recited): —

5 The court are of the opinion that the objects mentioned in this bill are within the jurisdiction of the Dominion Parliament, and are out of the exclusive jurisdiction of the Legislature of the Province of Quebec.

6 The report was duly transmitted to the Clerk of the Senate, together with a copy of the articles of association of the company, and the company was, subsequently, incorporated by the statute, ch. 119 of the Acts of the Parliament of Canada, passed in 1882, 45th Victoria.