COMPANY INCORPORATION IN CANADA

Remarkable Difference of View Apparently Among Provinces as to John Deere Plow Case

The important decision of the privy council some months ago in what has become known as the John Deere Plow Company case, is discussed in the annual report of the legislation committee of the Canadian Manufacturers' Association. The decision, says the report, has had an immediate effect in provincial legislation which has exhibited, however, a remarkable difference of view amongst the provincial departments as to the precise effect of the John Deere decision.

The province of Alberta, frankly admitting the full effect of the decision, has amended its foreign companies act by specifically excepting Dominion companies.

The province of Saskatchewan, which inherited the same foreign companies act from the old north-west territories, has gone to the other extreme by incorporating the provisions of the foreign companies act with the provisions of its regular companies act in a bill at the time of writing before the Saskatchewan legislature, in which it is sought to compel Dominion companies to "register" as if they were companies becoming incorporated under the Saskatchewan companies act.

What Other Provinces are Doing.

The New Brunswick legislature has attempted to retain the full effect of its extra-provincial licensing act, including the provisions prohibiting unlicensed companies from suing in the courts, but has changed the word "licensed" to "taxed," apparently purposing by a change in terminology rather than substance to save the act from being invalid.

In Nova Scotia the provisions prohibiting unlicensed companies from maintaining actions have been removed, but companies, whether provincial or Dominion, which "do or carry on" business in the province, are required to be "registered."

The provinces of Manitoba and Ontario have not made any amendments to their acts, but the departmental officials have assumed the position that the acts were untouched by the John Deere decision, though the action of the other provinces has considerably weakened the departmental view.

The question is not only as to the necessity of Dominion companies registering in the future, but of maintaining their registration by paying the annual fees. A question of serious consequence also is that of the liability of the province to refund the fees previously paid by Dominion companies. If the acts are invalid there is no doubt as to the legal liability of the provinces to refund these fees, and a considerable number of companies have taken tentative steps looking to their recovery.

As to Dominion Charters.

One of the results of the John Deere Plow Company decision has been an increase in the number of Dominion incorporations so large as to necessitate a considerable addition to the staff of the Dominion companies department. There has been a corresponding reduction in the number of provincial incorporations. This effect has been heightened by the decision of the Supreme Court in the Bonanza Creek Mining case, in which it was held that a company with an Ontario charter was inherently incapable of carrying on mining in the Yukon Territory, notwithstanding that it had a foreign company license from the territory to do so. The decision was on a broad, general basis, and had in view the expressions of the Privy Council in the John Deere Plow Company case as to the relative jurisdiction of the Dominion and the provinces over the incorporation of companies. It would apply equally to manufacturing companies. It means, if it means anything, that a company incorporated in Ontario for the purpose of manufacturing cannot manufacture outside Ontario. It may mean that a company incorporated in Ontario to buy and sell cannot buy and sell outside of Ontario. It is now on appeal to the Privy Council, and is to be heard along with the general companies reference at the present sittings of the Privy Council.

In this connection it should be pointed out that it is of the utmost importance where it is intended to charer a Dominion company with authority to carry on business throughout Canada that charter should be so drawn as to bring the company within the terms of the John Deere decision. Many charters have been issued within the past few months which, in the opinion of the legal department, not only fail to take advantage of that decision, but which may actually fail to give the company any real status. There is a certain class of companies which the Dominion alone can incorporate. There is another class which the provinces alone can incorporate. It is important that the charter should be so drawn that it is not attempted by a Dominion charer to incorporate a company with provincial objects.

Suggested Solution.

As a concrete suggestion for a permanent solution of the problem of company organization and control your committee have given some consideration to the suggestion that all commercial companies might be incorporated under Dominion legislation, the charters being issued by the provincial secretaries acting as deputies of the Dominion government and turning the fees wholly or partially into the provincial revenues. As the problem, so far as the Dominion is concerned, is one of securing some form of centralized administration assuring adequate authority and at the same time adequate control, and the chief concern of the provinces is the revenue derived from incorporation, this proposal would seem to offer a solution satisfactory to the Dominion and the provinces, and at the same time to the commercial companies.

SELLING INDUSTRIAL BONDS

From Vancouver there comes an offering of $150,000 twenty-year bonds of a Pacific Coast hardware company. This block is being handled by the Royal Financial Corporation and bears interest at the rate of seven per cent. The average annual profit of W. N. O'Neil Company, whose bonds are being offered, for the last four years has been $41,255. Particulars of the class of business done by the company is given in the prospectus, together with financial data furnished on the acquisition of the bonds by the well-known house making the issue.

LOAN COMPANY'S REGISTRY CANCELLED

The registry of the Land Security Company, a loaning land company, registered under the loan and trust corporations act of Ontario, has been cancelled by Mr. Will J. Vale, assistant registrar of loan corporations. The effect of this is to deprive the company of all rights and privileges under the loan and trust corporations act, and to forbid, so far as the province of Ontario is concerned, the transaction of its business as a loaning land company.

This information has been sent to *The Monetary Times* for publication because of illegal attempts being made in different places in Canada and the United States to sell nonexistent bonds and other securities of this company.

The company had its head office at Toronto. The report it made to the Ontario government for the year ended December 31st, 1913, showed assets of $361,360. There were no liabilities to the public. The total amount of authorized permanent caiptal stock was $5,000,000, of which $1,108,010 was subscribed. The balance of preference stock was, during 1910, 1911 and 1912, repaid to shareholders, together with 3 per cent. in each year, of the amount paid up returned to holders of common stock. The directorate at the end of 1913 was as follows: G. F. Little, president; C. R. Acres, vice-president; Senator Cox, J. H. Hunter, E. W. Cox, H. C. Cox, Alfred H. Cox, managing director, and R. G. Roberts, secretary. The company's charter was sold some time ago by these interests, who, of course, have nothing to do with the illegal attempts to sell securities.

A deputation of interested manufacturers will visit the Dominion government and request that a customs officer be appointed immediately at the port of New York in the interests of Canadian manufacturers doing business in the province of British Columbia. It is desired, presumably, that Canadian goods may be shipped to the Pacific coast via New York.