

APPENDIX "A"

OTTAWA, April 17, 1922.

Memorandum for the Minister of Justice:

The House of Commons on 11th instant having concurred in a report of the Committee on Agriculture and Colonization recommending "that the question of the constitutionality of the reconstruction of the Wheat Board, with the powers conferred thereon by the Orders in Council establishing or extending the same, be referred to the law officers of the Crown for their reasoned opinion," I submit for your consideration the following statement of my opinion.

The Canadian Wheat Board to which the resolution refers was constituted under authority of an Order in Council, No. 1589, of July 31, 1919, which was sanctioned, as therein expressed, "under and in virtue of the War Measures Act," and there are several amending Orders, the principal one being No. 1741 of August 18, 1919. The powers, duties and rights of the board as set forth in these Orders in Council were by the terms of an Act respecting the Canadian Wheat Board, Chapter 9 of 1919, second session, continued in force for eighteen months from the passing of that Act, November 10, 1919, and the Governor in Council was thereby empowered to fill vacancies and to make regulations for the extension, conduct or management of the business of the board. The Orders in Council and the rules, regulations and orders made thereunder by the board were moreover by the provisions of an Act concerning the Canadian Wheat Board, Chapter 5 of 1921, ratified and confirmed as and from their respective dates, and it was also thereby enacted that the board should continue to exercise its powers so far as might be necessary and convenient for winding up and concluding the business of the board.

By the Orders in Council the board was empowered to make such enquiries and investigations as were necessary to ascertain what supplies of wheat were or might be available from time to time; the locality and ownership of these supplies; the transportation and elevator facilities available therefor, and generally the conditions connected with the marketing of wheat.

The Board was also empowered to buy and sell wheat or wheat products at any point in Canada; to pay therefor the prices to be scheduled by the board and approved by the Governor in Council; to sell wheat to the millers in Canada at prices and upon conditions fixed by the board; to store, transport and market wheat; to sell quantities in excess of domestic requirements to purchasers overseas or in other countries at such prices as might be obtainable; to provide for the retention and distribution in Canada of seed wheat required for the season of 1920; to fix maximum prices or margins of profit at which flour and other products made from wheat delivered to millers might be sold, and to fix standards of quality of flour; to purchase flour from millers at prices to be fixed by the board, and to sell the flour in Canada or in other countries; to take possession of and to sell and deliver wheat stored in any elevator or warehouse, or in railway cars or Canadian boats, and to deal with the same as if acquired by the board in ordinary course; to control by license or otherwise the buying and selling of wheat and wheat products in Canada, and the export and sales of flour outside of Canada; to allocate Canadian lake tonnage and to distribute cars for rail shipments; to provide that no person, firm or corporation other than the board should buy wheat, operate any elevator or warehouse where wheat is received, or handle wheat on commission or otherwise, unless licensed by the board; to require that any wheat sold or purchased in Canada should be delivered to the board, or to its order, in accordance with such regulations as the board might make; to require every license of the board accepting delivery of wheat to pay the purchaser by way of an advance or cash payment such sum or sums as might be directed by the board; to order any person holding wheat stored in any elevator or warehouse or in railway cars or Canadian boats to sell and dispose of