

with the Queensland Wheat Pool Act of 1920 and the Queensland Primary Products Act of 1922. G. F. Perkin, formerly Chairman of the Ontario Farm Products Marketing Board, stated as follows:—

“The essential feature of the Australian Acts and subsequently their British and Canadian counterparts is that where the majority of the producers of a commodity desire to sell their product collectively the minority may be compelled by law to join in a common sales policy.”

The Natural Products Marketing Act passed by the Federal Government in 1934 was patterned to a considerable extent on the British Marketing Acts of 1931 and 1933 but it too was declared *ultra vires* of federal authority and the judgment of the Privy Council brought down in 1937 indicates that the form in which this legislation was enacted attempted to regulate within the province as well as in matters of interprovincial concern. An extract from the judgment is as follows:—

“It was said that as the Provinces and the Dominion between them possess a totality of complete legislative authority, it must be possible to combine Dominion and provincial legislation so that each within its own sphere could in co-operation with the other achieve the complete power of regulation which is desired. Their Lordships appreciate the importance of the desired aim. Unless and until a change is made in the respective legislative functions of Dominion and Province, it may well be that satisfactory results for both can only be obtained by co-operation. But the legislation will have to be carefully framed, and will not be achieved by either party leaving its own sphere and encroaching upon that of the other. In the present case their Lordships are unable to support the Dominion legislation as it stands. They will, therefore, humbly advise His Majesty that this appeal should be dismissed.”

About this time and following this 1937 judgment, further provincial legislation was enacted and attempted to deal with matters strictly within the provincial authority. Some test cases indicate that these newly developed provincial Acts are mainly *intra vires*. Following the withdrawal of wartime powers of the Federal Government, the Agricultural Products Marketing Act of 1949 was enacted to provide delegation for like powers to those established for marketing boards within a province for the purposes of interprovincial and export trade. A Supreme Court judgment in January 1952 cleared the validity of the Agricultural Products Marketing Act but left some doubt with respect to how licences, levies or other charges can be made by marketing boards beyond the extent of immediate administrative expenses without some approval by the Federal Government in its constitutional field of indirect taxation.

In April 1957, following a further Supreme Court judgment in respect to Ontario legislation, an amendment to the federal Agricultural Products Marketing Act vested in the Governor in Council the right to authorize local boards to “fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of any agricultural product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, to use such levies or charges for the purposes of such board or agency, including the creation of reserves, and the payment of expenses and losses resulting from the sale or disposal of any such agricultural product, and the equalization or adjustment among producers of any agricultural product of moneys realized from the sale thereof during such period or periods of time as the board or agency may determine”.

There are at present close to 75 such marketing boards organized in Canada, about one-half of which are in the Province of Quebec and about one-quarter in Ontario; all other provinces with the exception of Newfoundland have one or more boards.

The annual statistical report prepared by the Economics Division of the Department of Agriculture in relation to these boards indicates that about one-eighth of the farm cash income in Canada in 1958 was received from sales made under the control of provincial marketing board plans, including the following commodities: seed corn, potatoes, other vegetables, sugar beets, tobacco, hogs, certain dairy products, fruits, wool, honey, white beans, maple products and soybeans.

On June 1, 1960, twenty-five of these provincial boards had received an extension of powers for purposes of interprovincial and export trade from the Federal Government. Three had received authority to collect levies in excess of administrative expenses.