

THE WESTERN GUARDIAN

PRINCE COUNTY OFFICE
3 Summer Street, Summerside. Phone 803L.
Newspapers, Advertising Representatives
GEORGE CLOW and GEORGE WOTTON
House Phones: 8032 and 2452
The Guardian may be bought at any of the following stores in Summerside:

BUY BAR IRON and sleigh shoe steel at Brace's.
NOTICE.—Card Party, Darnley Hall, February 1st.
ICE CREEPERS in stock at Brace's.
KENSINGTON — MALPEQUE AND FREETOWN Presbyterian Churches, Services Sunday, February 3rd, will be as follows:—Kensington 11 A.M. and 7:30 P.M. Malpeque at 2:30 P.M. Rev. E. G. Evans will conduct the services. Rev. D. A. Campbell, Interim Moderator.

WESTERN HOSPITAL BINGO — A large number attended the bingo which was held at the Western Hospital on Wednesday evening Jan. 30th. Although all were not fortunate in winning prizes they enjoyed the evening. A nice sum was realized for the benefit of the hospital. On the completion of the bingo the lottery tickets were drawn with the following winners:—First prize, hand embroidered linen tablecloth won by Brenton O'Connor. Second prize — white linen tablecloth with six serviettes won by Mrs. Stephen M. Burke. Third prize — applique linen runner, won by J.A. MacDougall. The drawing was done by Mrs. Winnie Morrison. — B.W.

PRINCESS AND
Continued from page 1
Nairobi Airport tomorrow morning (2:15 a.m. EST) to spend two days before going on to Sagana Lodge near Nyeri in the Mount Kenya foothills. The lodge was a wedding present to them from the Kenya Government.

"MICKY" MACDONALD
Continued from page 1
Melville Wilkie, 41, laborer of Shaw Lake, Ont., who set a fire in his house that burned his wife and child to death in Owen Sound, Ont., in 1933. He escaped from the Ontario Hospital for the Criminally Insane at Penetanguishene, Ont., on July 14, 1930. John Mallock, 36, Winnipeg salesman, wanted in Vancouver for selling narcotics.

PERSONALS
Miss Phyllis MacPherson, of the staff of the Enman Drug Store, was a recent visitor to her home in Montague.
The many friends of Mrs. Lois Moase will be pleased to learn she is gradually improving in health at her home in Summerside.

S'SIDE CURLING
The following is the schedule for the Summerside Curling Ring for tonight:
Ice 1—H. E. Gaudet vs. William Morrison
Ice 2—R. Robinson vs. E. Cannon
Ice 3—W. Macdonald vs. Sgt. Valley

Y's Men Hear Original Cantata

The weekly meeting of the Summerside Y's Men's Club was held last evening at Robson's Restaurant with Ross MacKenzie as chairman. Guests included Mr. William Ramsay, Mr. Edgar Cannon, P/O. Johnson and P/O. Rogers of the R.A.F. Jock Hopkirk, Art Rogers and Ralph Emery left early to conduct weekly movies at Prince County Hospital. George Clark asked four volunteers from the club or four local men who would be willing to conduct Boy Scout troops sponsored by the club. These men would replace several R.A.F. chaps who have been working with the Boy Scouts up until their return recently to England. Ross MacKenzie reported on the Maritime convention and the committee offered a prize for the best suggestions for making the convention an outstanding success. Charles Linkletter and Ralph MacFarlane reported the radio auction would be held on Wednesday, March 19th, over CJRW, and that Y's Frank Cameron and Jim Murphy had volunteered to be co-chairmen in 1953. Arch Hopkins was appointed chairman of entertainment and Art Rogers and Ron Jeffrey in charge of town canvas. A very splendid recording was heard of an original cantata entitled "Ode To Y'sdom". This was composed by a Y's Man and sung by a chorus of 250 voices for the centennial Y.M.C.A. and Y's Men's convention held in Cleveland, Ohio, last year, at which time the Summerside club was represented by Charles Linkletter.

Abegweit Chapter I.O.D.E. Meets

Yesterday afternoon at the January meeting of the Abegweit Chapter I.O.D.E., held in the Town Hall, Summerside, the following resolution was unanimously passed: "The Abegweit Chapter strongly approves of any action which the national executive shall see fit to take in regard to protesting the change in the name of our national holiday from Dominion Day to Canada Day, and to the elimination of dominion and royal from their proper and traditional use." The regent, Miss Wanda Wyatt, who presided, will write the Federal representative, Mr. J. Watson MacNaught on the same subject. Mrs. E. T. Tanton was appointed representative of the Canadian Consumers Association for the Chapter. Mrs. Wm. E. Forbes, educational secretary, stated that Mrs. Dumont of Charlottetown was convener of the Empire correspondence. Mrs. W. A. Currie, child and family welfare secretary, reported the placing of magazines in the I.O.D.E. room of the Prince County Hospital. Nomination of officers for the ensuing year, followed, and the election will take place at the February meeting.—S.

CHURCHILL GOV'T

Continued from page 1
Conservative changes in the tax-supported health services. Churchill and his ministers declared the government's program aimed at saving off national bankruptcy and "restoring the confidence of the world in the determination of this country to pay its way." Churchill will have had to resign if the censure motion had carried. He was in the chamber when the vote was announced. During the debate, Attlee admitted Britain's economic crisis is grave, but declared the Churchill regime was mixing "class legislation" with belt-tightening measures. Attlee insisted there is need of "far greater co-operation in the world" to put Britain on an even keel. He declared: "Today the United States has an altogether disproportionate influence upon the economic affairs of the world, due to her immense size."

Critical Of Deals
Attlee criticized the Churchill Government's latest deals with the United States—such as the sale of British rubber stockpiled—and asserted: "Drawing on stocks is at best a very doubtful expedient when part of our troubles are due to American stockpiling. Very largely, American stockpiling rocketed prices against us." Loudest cheers came from the Labor benches when Attlee lashed out at the Conservatives for imposing fees for medical services the Labor Government gave without charge and for new restrictions on installment plan buying. Attlee charged these measures were class legislation "favoring the wealthy against the less wealthy."

EMBARRASSING NAMES
BRISBANE, Australia.—(Reuters)—Residents of Queer Street have petitioned the City Council asking that the street name be changed to Gledforsa Street. It's been known as Queer Street for years in suburban Bardonia.
BIRTHPLACE OF CRICKET
Hambleton in Hampshire, England, where cricket was played as early as 1750, is known as the cradle of modern cricket.

Scheme In General

Continued from page 1
4. Is it within the jurisdiction and competence of the Prince Edward Island Marketing Board to make the Orders made under the said scheme or any of the Orders so made?
Question 4.—
Answer: As to Board Order Number 6 (2), (producer's levy), and the now-repealed Board Order Number 2 (levy).—"No". As to the Board Orders in general,—"No, subject to the proviso set out in the answer to Question 3."

Justice Tweedy's Judgment
Mr. Justice Tweedy went at considerable length into the case of Attorney-General of Nova Scotia et al v. Attorney-General of Canada et al (1950) 4 D.L.R. p. 369. He based his opinion largely on the reasoning in that case which held that neither the Parliament of Canada nor the Legislature of any Province can delegate legislative authority to the other but that each must exercise the powers it received under the B.N.A. Act.

Mr. Justice Tweedy differentiated the "Hodge", "Chemicals" and "Russell" cases as either dealing with local matters on the one hand or exercising emergency powers on the other. "The case at Bar, however, is an entirely different one, and one which in my opinion should not be confused with the Hodge case. I do not know that it would be of any further assistance to refer individually to the many interesting cases submitted to us. Having considered the cases, and having listened to the very able and helpful arguments of counsel, I have come to the conclusion that Question No. 1 ought to be answered in the negative. Were I to hold otherwise the whole scheme of the Canadian Constitution, as I understand it, would be entirely defeated. It seems inconceivable to me that it should be necessary, under sections 91 and 92 of The British North America Act which uses the word "exclusive" in both sections, to have to resort to such an elusive way of legislating with regard to the trading in and sale of an exportable product. I feel the Parliament of Canada, through its elected representatives, ought to be in a position to acquaint its master, the people, with the exact nature of the legislation; what it is proposed to do, what tax, levy or service charge is to be made and much other information which the people have a right to know. It ought to have some say in the appointment, control and discipline of these people who are given such dictatorial powers. If this method of legislation were held valid, then every Province in Canada would have an equal right to enact similar legislation and set up similar schemes and Boards dealing with export trade, and the result could only be chaos. Similarly, the people of this Province, or of any other Province, have a right to know the exact nature of the legislation which is proposed to be enacted; if there is to be a tax, levy or service charge, then some indication of the nature and amount of same should be disclosed. In view of the fact that I have answered Question No. 1 in the negative, I presume it is not necessary to answer Question No. 2. Considering now Question No. 3, which reads as follows: "3. Is it within the jurisdiction and competence of the Lieutenant-Governor-in-Council to establish the said Scheme, and in particular section 16 thereof?" This is a question similar to the one which was referred to the Supreme Court in Banco di Sicilia Province for hearing and consideration on the 5th day of May 1941. In the proposed orders and determinations of the Sheep and Swine Marketing Board case, I have had the privilege of reading the opinions of Saunders, J., and Arsenault, J., which were filed on the 30th day of July 1941 in file No. 4618 of this Court. Mr. Justice Tweedy went on to cite the reasoning of Arsenault J. and Saunders J. to the effect that "If the pith and substance of such legislation was confined to transactions within the Province then such legislation would be ultra vires even if incidentally it affected matters outside its proper field. Otherwise such legislation would be ultra vires."

With the exception of Section 19 of the Scheme which is clearly ultra vires, the Scheme in so far as it regulates or is intended to regulate transactions of a local or private nature and is limited to those transactions having their beginning and end within the Province, is not objectionable. Otherwise the Scheme would be invalid.

Chief Justice Campbell
Chief Justice Thane A. Campbell and Mr. Justice M. R. MacGilligan concurred in the opinion of Mr. Justice Tweedy. The Chief Justice added, not ruling out the theoretical possibility of Dominion and Province validly appointing and authorizing the same body which would be responsible to each, that, "The background and substance of this Reference are fully set out in the Note of Mr. Justice Tweedy, whom I have asked to read the first opinion, and with whose conclusions I agree. "The focal question for decision is whether the Parliament of Canada, acting through the Governor-in-Council, can confer jurisdiction to regulate interprovincial and export trade upon a board or agency constituted by the Sovereign, by and with the advice and consent of the Senate and House of Commons. Parliament cannot delegate those powers to a Provincial Legislature. Can it be supposed that Parliament can delegate its powers to a group created solely by, and responsible only to, a Provincial Legislature? My opinion would be, "a fortiori, No."

I therefore agree with Tweedy, J., that Question No. 1 should be answered in the negative, and it is therefore not necessary to answer No. 2. "This being the case, the Scheme and Orders rest solely upon the authority of the Provincial Legislature, and the answers to the remaining questions may be based substantially on those given by Arsenault and Saunders, J.J., in Re Sheep and Swine Marketing Scheme (1941) 3 D.L.R. 569. It is not necessary for me to add to the remarks made by Tweedy, J., on this aspect of the present case, except to refer to a 19 of the present Scheme, and s. 6 of the Act, on which a 19 is based. If the word "regulate" had not been used in those contexts, they might have been regarded as harmless authorities to confer and collaborate informally. The word "regulate" not only renders s. 19 of the Scheme invalid, but indicates an intention of the Provincial Legislature to extend the scope of its whole enactment beyond the confines of Provincial jurisdiction. It therefore becomes more difficult (and less important) to segregate the valid from the invalid, and to indicate decisively just how much of the Scheme and Orders may be within Provincial competency.

Potato Levy
I may also refer briefly to the argument which was directed to the validity of Board Order Number 6 (2), respecting the levying of one cent per hundred pounds in respect of all potatoes sold or marketed by any producer. The Act of the Provincial Legislature contains no express authority for such a levy, and even s. 16 (k) of the Scheme (providing for the establishment of a fund for the administration of the Scheme) is not so clear or specific as is normally required to validate a tax or compulsory impost such as that enacted by Board Order 6 (2). Without considering whether such a levy would, or would not, be a measure of indirect taxation, let me assume that the Potato Board has express or implied powers adequate to authorize it to raise a fund sufficient for the proper administration of the valid portions or aspects of the Scheme. Counsel for the Nominal Plaintiff virtually admitted that the proceeds of the fund to be raised by Board Order 6 (2) would far exceed the administration expenses involved in the present or presently contemplated activities of the Board, particularly if such activities were confined to the regulation of intra-provincial marketing. He eloquently envisaged a not distant day when the fund would be required to finance gigantic warehousing facilities. Such extensive warehousing would obviously be relative only to the extra-provincial or export trade in potatoes, and would be therefore beyond the valid Provincial scope of the Scheme. The tax or impost levied by Board Order 6 (2), and by its predecessor Board Order No. 2, is clearly far in excess of the valid requirements of the Board for intra vires administration expenses, and must be taken to be imposed in contemplation of activities beyond the jurisdiction of the Board. The levy is therefore ultra vires and invalid. Counsel in the case were as follows: For the nominal Plaintiff, Mr. H. F. MacPhee, K.C., and Mr. R. H. Miliken, K.C., of the Saskatchewan bar. For the nominal Defendant, Mr. K. M. Martin, K.C. For the Attorney-General, Mr. J. O. C. Campbell, K.C.

VARIED COMMENT
Continued from page 1
Dominion Department of Justice and the elected representatives of the Canadian people, this legislation was within the competency of the Parliament of Canada. "The Supreme Court of Prince Edward Island has ruled otherwise and their decision will have wide repercussions throughout the country. However, I am sure agricultural interests throughout this Province and all Canada will continue to seek—and ultimately obtain—the same measure of self-determination and security enjoyed by other citizens of Canada."

Mr. Lincoln Dewar
Mr. Dewar said: "The decision handed down by the Supreme Court holding Federal Bill 82 to be 'ultra vires' holds the scheme to be invalid on the ground that it undertakes to regulate and control a commodity almost entirely exported from this Province. It is one which has a bearing not only on local marketing problems, but also on a large number of other schemes now in effect in other Provinces. "For instance, the chief marketing board of Ontario is operating under Bill 82, and under its authority has set up a central agency and marketed upwards of 13,000,000 lbs. of cheese in Great Britain last year. The B.C. Interior Fruit and Vegetable Marketing Board is operating under Provincial legislation identical with that of P.E.I. and has been regulating export and inter-Provincial trade in a wide variety of

authority of a Provincial Legislature. "The limits of that issue are narrowed, or at least clarified, by two fairly recent decisions of the Supreme Court of Canada. "In Reference re Regulations (Chemicals) under the War Measures Act, (1943) 1 D.L.R. 248, it was made clear that Parliament can, in appropriate cases, exercise its legislative functions through orders and regulations of the Governor-in-Council, and that such orders and regulations may, by virtue of further delegation, or 'devolution', be validly enacted by a subordinate agency of the Governor-in-Council. "In A.G. Nova Scotia v. A.G. Canada (1950) 4 D.L.R. 369, it was made clear that neither can the Parliament of Canada give, either expressly or implicitly, to a Provincial Legislature, a power which the British North America Act does not give it,—nor vice versa. "Both Kerwin, J., (p. 373) and Taschereau, J., (p. 377) cite with approval the remark of Lord Watson in C.P.R. vs. Notre Dame de Bonsecours (1899) A.C. 367 (the words cited are not contained in the Law Reports, but are set forth in Lefroy's "Canadian Constitution",—1913, p. 70: "The Dominion cannot give jurisdiction or leave jurisdiction, with the Province. The Provincial Parliament cannot give legislative jurisdiction to the Dominion Parliament. If they have it, either one or the other of them, they have it by virtue of the Act of 1867. I think we must get rid of the idea that either one or the other can enlarge the jurisdiction of the other or surrender jurisdiction." To which Lord Daves adds: 'or curtail.' "Counsel for the Nominal Plaintiff in the present case urged that the effect of the latter Supreme Court judgment was limited to its immediate decision, and that, although Parliament cannot delegate its exclusive powers to a Provincial Legislature, there is nothing to prevent Parliament from delegating those powers to an appointee of that Provincial Legislature, without surrendering or abandoning its own legislative jurisdiction. "Arguable Point "It is, of course, arguable that the mere fact of nomination or appointment by a Provincial Legislature might not render a board or officer incompetent to receive a devolution of Dominion legislative power, if Parliament (either directly or through the Governor-in-Council) knew the composition and personnel of the appointee, and adopted it or him as Parliament's own agency or delegate. In other words, it might arguably happen that Parliament and a Provincial Legislature might, by accident or design, clothe the same individual or group with power to legislate in their respective fields, or in a particular field from the aspects of each of their respective legislative jurisdictions. Whether, or not, such a two-fold legislative responsibility would be constitutionally valid, it is not necessary to decide, for in this case Parliament has neither directly nor indirectly established any control over the composition or personnel of the intended agency. "It seems to me that the validity of legislative delegation, or devolution, depends upon the existence of a reciprocal measure of confidence by Parliament in the intended delegate or agency, or of responsibility by the delegate or agency to Parliament. As Rinfret, J., (now C.J.C.), says in the Chemicals Reference (p. 260), "Parliament has indicated no intention of abandoning control and has made no abandonment of control, in fact. The subordinate instrumentally, which it has created for exercising the powers, remains responsible directly to Parliament and depends upon the will of Parliament for the continuance of its official existence." "Question Of Responsibility "In the present case, the ultimate delegate or subordinate agency is constituted, as to personnel and organization, solely under the authority of the Provincial Legislature, is responsible solely to the Provincial Government and Legislature, and depends upon the Provincial Government and Legislature for the continuance of its official existence. How can a group so constituted, having a single allegiance to the Provincial Legislature, and through it to the citizens of the Province in their Provincial capacity, owe a duty to act either by enacting or by exercising a conferred jurisdiction not, at the particular time, to act, which must rest upon a subordinate delegate of legislative power? See per Rand, J., in A.G. N.S. v. A.G. Can., supra, p. 396. "It is true that Parliament, or the Governor-in-Council, may in the present instance revoke the proposed delegated authority, but it cannot be said that in the interval between the conferring and revocation of authority Parliament retains its power intact, as the board or agency is not responsible to Parliament, and the measure of the authorized powers is "the powers exercisable by such board or agency (by virtue of Provincial enactment) in relation to marketing locally within the Province."—S. 2 (1f). "Nova Scotia Reference "In the Nova Scotia reference, Rinfret, C.J.C., says at p. 371: "The country is entitled to insist that legislation adopted under s. 91 should be passed exclusively by the Parliament of Canada." Laws under s. 91 must be made

by the Sovereign, by and with the advice and consent of the Senate and House of Commons. Parliament cannot delegate those powers to a Provincial Legislature. Can it be supposed that Parliament can delegate its powers to a group created solely by, and responsible only to, a Provincial Legislature? My opinion would be, "a fortiori, No."

I therefore agree with Tweedy, J., that Question No. 1 should be answered in the negative, and it is therefore not necessary to answer No. 2. "This being the case, the Scheme and Orders rest solely upon the authority of the Provincial Legislature, and the answers to the remaining questions may be based substantially on those given by Arsenault and Saunders, J.J., in Re Sheep and Swine Marketing Scheme (1941) 3 D.L.R. 569. It is not necessary for me to add to the remarks made by Tweedy, J., on this aspect of the present case, except to refer to a 19 of the present Scheme, and s. 6 of the Act, on which a 19 is based. If the word "regulate" had not been used in those contexts, they might have been regarded as harmless authorities to confer and collaborate informally. The word "regulate" not only renders s. 19 of the Scheme invalid, but indicates an intention of the Provincial Legislature to extend the scope of its whole enactment beyond the confines of Provincial jurisdiction. It therefore becomes more difficult (and less important) to segregate the valid from the invalid, and to indicate decisively just how much of the Scheme and Orders may be within Provincial competency.

Potato Levy
I may also refer briefly to the argument which was directed to the validity of Board Order Number 6 (2), respecting the levying of one cent per hundred pounds in respect of all potatoes sold or marketed by any producer. The Act of the Provincial Legislature contains no express authority for such a levy, and even s. 16 (k) of the Scheme (providing for the establishment of a fund for the administration of the Scheme) is not so clear or specific as is normally required to validate a tax or compulsory impost such as that enacted by Board Order 6 (2). Without considering whether such a levy would, or would not, be a measure of indirect taxation, let me assume that the Potato Board has express or implied powers adequate to authorize it to raise a fund sufficient for the proper administration of the valid portions or aspects of the Scheme. Counsel for the Nominal Plaintiff virtually admitted that the proceeds of the fund to be raised by Board Order 6 (2) would far exceed the administration expenses involved in the present or presently contemplated activities of the Board, particularly if such activities were confined to the regulation of intra-provincial marketing. He eloquently envisaged a not distant day when the fund would be required to finance gigantic warehousing facilities. Such extensive warehousing would obviously be relative only to the extra-provincial or export trade in potatoes, and would be therefore beyond the valid Provincial scope of the Scheme. The tax or impost levied by Board Order 6 (2), and by its predecessor Board Order No. 2, is clearly far in excess of the valid requirements of the Board for intra vires administration expenses, and must be taken to be imposed in contemplation of activities beyond the jurisdiction of the Board. The levy is therefore ultra vires and invalid. Counsel in the case were as follows: For the nominal Plaintiff, Mr. H. F. MacPhee, K.C., and Mr. R. H. Miliken, K.C., of the Saskatchewan bar. For the nominal Defendant, Mr. K. M. Martin, K.C. For the Attorney-General, Mr. J. O. C. Campbell, K.C.

VARIED COMMENT
Continued from page 1
Dominion Department of Justice and the elected representatives of the Canadian people, this legislation was within the competency of the Parliament of Canada. "The Supreme Court of Prince Edward Island has ruled otherwise and their decision will have wide repercussions throughout the country. However, I am sure agricultural interests throughout this Province and all Canada will continue to seek—and ultimately obtain—the same measure of self-determination and security enjoyed by other citizens of Canada."

Mr. Lincoln Dewar
Mr. Dewar said: "The decision handed down by the Supreme Court holding Federal Bill 82 to be 'ultra vires' holds the scheme to be invalid on the ground that it undertakes to regulate and control a commodity almost entirely exported from this Province. It is one which has a bearing not only on local marketing problems, but also on a large number of other schemes now in effect in other Provinces. "For instance, the chief marketing board of Ontario is operating under Bill 82, and under its authority has set up a central agency and marketed upwards of 13,000,000 lbs. of cheese in Great Britain last year. The B.C. Interior Fruit and Vegetable Marketing Board is operating under Provincial legislation identical with that of P.E.I. and has been regulating export and inter-Provincial trade in a wide variety of

authority of a Provincial Legislature. "The limits of that issue are narrowed, or at least clarified, by two fairly recent decisions of the Supreme Court of Canada. "In Reference re Regulations (Chemicals) under the War Measures Act, (1943) 1 D.L.R. 248, it was made clear that Parliament can, in appropriate cases, exercise its legislative functions through orders and regulations of the Governor-in-Council, and that such orders and regulations may, by virtue of further delegation, or 'devolution', be validly enacted by a subordinate agency of the Governor-in-Council. "In A.G. Nova Scotia v. A.G. Canada (1950) 4 D.L.R. 369, it was made clear that neither can the Parliament of Canada give, either expressly or implicitly, to a Provincial Legislature, a power which the British North America Act does not give it,—nor vice versa. "Both Kerwin, J., (p. 373) and Taschereau, J., (p. 377) cite with approval the remark of Lord Watson in C.P.R. vs. Notre Dame de Bonsecours (1899) A.C. 367 (the words cited are not contained in the Law Reports, but are set forth in Lefroy's "Canadian Constitution",—1913, p. 70: "The Dominion cannot give jurisdiction or leave jurisdiction, with the Province. The Provincial Parliament cannot give legislative jurisdiction to the Dominion Parliament. If they have it, either one or the other of them, they have it by virtue of the Act of 1867. I think we must get rid of the idea that either one or the other can enlarge the jurisdiction of the other or surrender jurisdiction." To which Lord Daves adds: 'or curtail.' "Counsel for the Nominal Plaintiff in the present case urged that the effect of the latter Supreme Court judgment was limited to its immediate decision, and that, although Parliament cannot delegate its exclusive powers to a Provincial Legislature, there is nothing to prevent Parliament from delegating those powers to an appointee of that Provincial Legislature, without surrendering or abandoning its own legislative jurisdiction. "Arguable Point "It is, of course, arguable that the mere fact of nomination or appointment by a Provincial Legislature might not render a board or officer incompetent to receive a devolution of Dominion legislative power, if Parliament (either directly or through the Governor-in-Council) knew the composition and personnel of the appointee, and adopted it or him as Parliament's own agency or delegate. In other words, it might arguably happen that Parliament and a Provincial Legislature might, by accident or design, clothe the same individual or group with power to legislate in their respective fields, or in a particular field from the aspects of each of their respective legislative jurisdictions. Whether, or not, such a two-fold legislative responsibility would be constitutionally valid, it is not necessary to decide, for in this case Parliament has neither directly nor indirectly established any control over the composition or personnel of the intended agency. "It seems to me that the validity of legislative delegation, or devolution, depends upon the existence of a reciprocal measure of confidence by Parliament in the intended delegate or agency, or of responsibility by the delegate or agency to Parliament. As Rinfret, J., (now C.J.C.), says in the Chemicals Reference (p. 260), "Parliament has indicated no intention of abandoning control and has made no abandonment of control, in fact. The subordinate instrumentally, which it has created for exercising the powers, remains responsible directly to Parliament and depends upon the will of Parliament for the continuance of its official existence." "Question Of Responsibility "In the present case, the ultimate delegate or subordinate agency is constituted, as to personnel and organization, solely under the authority of the Provincial Legislature, is responsible solely to the Provincial Government and Legislature, and depends upon the Provincial Government and Legislature for the continuance of its official existence. How can a group so constituted, having a single allegiance to the Provincial Legislature, and through it to the citizens of the Province in their Provincial capacity, owe a duty to act either by enacting or by exercising a conferred jurisdiction not, at the particular time, to act, which must rest upon a subordinate delegate of legislative power? See per Rand, J., in A.G. N.S. v. A.G. Can., supra, p. 396. "It is true that Parliament, or the Governor-in-Council, may in the present instance revoke the proposed delegated authority, but it cannot be said that in the interval between the conferring and revocation of authority Parliament retains its power intact, as the board or agency is not responsible to Parliament, and the measure of the authorized powers is "the powers exercisable by such board or agency (by virtue of Provincial enactment) in relation to marketing locally within the Province."—S. 2 (1f). "Nova Scotia Reference "In the Nova Scotia reference, Rinfret, C.J.C., says at p. 371: "The country is entitled to insist that legislation adopted under s. 91 should be passed exclusively by the Parliament of Canada." Laws under s. 91 must be made

by the Sovereign, by and with the advice and consent of the Senate and House of Commons. Parliament cannot delegate those powers to a Provincial Legislature. Can it be supposed that Parliament can delegate its powers to a group created solely by, and responsible only to, a Provincial Legislature? My opinion would be, "a fortiori, No."

I therefore agree with Tweedy, J., that Question No. 1 should be answered in the negative, and it is therefore not necessary to answer No. 2. "This being the case, the Scheme and Orders rest solely upon the authority of the Provincial Legislature, and the answers to the remaining questions may be based substantially on those given by Arsenault and Saunders, J.J., in Re Sheep and Swine Marketing Scheme (1941) 3 D.L.R. 569. It is not necessary for me to add to the remarks made by Tweedy, J., on this aspect of the present case, except to refer to a 19 of the present Scheme, and s. 6 of the Act, on which a 19 is based. If the word "regulate" had not been used in those contexts, they might have been regarded as harmless authorities to confer and collaborate informally. The word "regulate" not only renders s. 19 of the Scheme invalid, but indicates an intention of the Provincial Legislature to extend the scope of its whole enactment beyond the confines of Provincial jurisdiction. It therefore becomes more difficult (and less important) to segregate the valid from the invalid, and to indicate decisively just how much of the Scheme and Orders may be within Provincial competency.

Potato Levy
I may also refer briefly to the argument which was directed to the validity of Board Order Number 6 (2), respecting the levying of one cent per hundred pounds in respect of all potatoes sold or marketed by any producer. The Act of the Provincial Legislature contains no express authority for such a levy, and even s. 16 (k) of the Scheme (providing for the establishment of a fund for the administration of the Scheme) is not so clear or specific as is normally required to validate a tax or compulsory impost such as that enacted by Board Order 6 (2). Without considering whether such a levy would, or would not, be a measure of indirect taxation, let me assume that the Potato Board has express or implied powers adequate to authorize it to raise a fund sufficient for the proper administration of the valid portions or aspects of the Scheme. Counsel for the Nominal Plaintiff virtually admitted that the proceeds of the fund to be raised by Board Order 6 (2) would far exceed the administration expenses involved in the present or presently contemplated activities of the Board, particularly if such activities were confined to the regulation of intra-provincial marketing. He eloquently envisaged a not distant day when the fund would be required to finance gigantic warehousing facilities. Such extensive warehousing would obviously be relative only to the extra-provincial or export trade in potatoes, and would be therefore beyond the valid Provincial scope of the Scheme. The tax or impost levied by Board Order 6 (2), and by its predecessor Board Order No. 2, is clearly far in excess of the valid requirements of the Board for intra vires administration expenses, and must be taken to be imposed in contemplation of activities beyond the jurisdiction of the Board. The levy is therefore ultra vires and invalid. Counsel in the case were as follows: For the nominal Plaintiff, Mr. H. F. MacPhee, K.C., and Mr. R. H. Miliken, K.C., of the Saskatchewan bar. For the nominal Defendant, Mr. K. M. Martin, K.C. For the Attorney-General, Mr. J. O. C. Campbell, K.C.

VARIED COMMENT
Continued from page 1
Dominion Department of Justice and the elected representatives of the Canadian people, this legislation was within the competency of the Parliament of Canada. "The Supreme Court of Prince Edward Island has ruled otherwise and their decision will have wide repercussions throughout the country. However, I am sure agricultural interests throughout this Province and all Canada will continue to seek—and ultimately obtain—the same measure of self-determination and security enjoyed by other citizens of Canada."

Change In Red Tactics In Berlin Proves Puzzling
By Tom Reedy
BERLIN, Jan. 31.—(AP)—The Russians are playing "meek and mild" in Berlin these days and the West is worried. The big question in the minds of West Berliners and the Allied powers is: "What's the new Red game?" For months now, the Russians have seemed deliberately trying to remove once-terrible Berlin from the list of trouble spots. The agitation methods against road, rail and barge shipments between West Berlin and West Germany have been abandoned. The Communist People's Police do not heckle West Germans unduly, but speed them through the frontier as long as their papers are in order. On the rare occasions when Russians meet Western authorities, they are all smiles and good cheer. As one high official comment: "This peace and quiet doesn't make much sense. The Russians obviously haven't lost sight of their goal, so they must have hit on a new way to get at it—namely, get us out of here. But we can't figure out the strategy."

There is some speculation in foreign quarters that Soviet top strategists have decided they lose something every time they appear to be browbeating Berlin. There now is some thought the Russians may have decided on a long-term tactic of allowing West Berlin to wither on the economic vine. It's true that all the Marshall Plan spending and West German Government support of the surrounded city still has failed to create employment worth mentioning. The peak of 300,000 jobs in the west sectors (population 2,250,000) has been reduced only to 275,000 in the last year.

LIKE FATHER
REGINA.—(CP)—When Charles Melville Smith made his last trip at the throttle after 49 years as a railway engineer, his son, a locomotive fireman, handled the local shovels. Without considering whether such a levy would, or would not, be a measure of indirect taxation, let me assume that the Potato Board has express or implied powers adequate to authorize it to raise a fund sufficient for the proper administration of the valid portions or aspects of the Scheme. Counsel for the Nominal Plaintiff virtually admitted that the proceeds of the fund to be raised by Board Order 6 (2) would far exceed the administration expenses involved in the present or presently contemplated activities of the Board, particularly if such activities were confined to the regulation of intra-provincial marketing. He eloquently envisaged a not distant day when the fund would be required to finance gigantic warehousing facilities. Such extensive warehousing would obviously be relative only to the extra-provincial or export trade in potatoes, and would be therefore beyond the valid Provincial scope of the Scheme. The tax or impost levied by Board Order 6 (2), and by its predecessor Board Order No. 2, is clearly far in excess of the valid requirements of the Board for intra vires administration expenses, and must be taken to be imposed in contemplation of activities beyond the jurisdiction of the Board. The levy is therefore ultra vires and invalid. Counsel in the case were as follows: For the nominal Plaintiff, Mr. H. F. MacPhee, K.C., and Mr. R. H. Miliken, K.C., of the Saskatchewan bar. For the nominal Defendant, Mr. K. M. Martin, K.C. For the Attorney-General, Mr. J. O. C. Campbell, K.C.

INDIAN ARTISTS
LETHBRIDGE, Alta.—(CP)—Two youthful blood Indian artists have encamped in the Lethbridge area to paint western scenes. They are Jim Hunt and Adam Bottle. fruits and vegetables. The present decision is one of numerous set-backs, which agriculture producers have received in their efforts, during the past 20 odd years, to gain a measure of control over the marketing of their own products. Eventually legislation will be framed, which will leave without question the right of the producer to a definite right to say where, when, and how, and by whom, farm products will be channelled into both inter-Provincial and export trade."

Colonel Full
Col. Full stated: "When the Marketing Board refused the potato dealers' idea of a very small levy on the potatoes during a year when the prices were as low as they were last year the dealers felt that the intention behind the tax on all potatoes moved from the Province was to accumulate a fund so that with the authority of the scheme the Marketing Board could branch into active marketing itself with the working capital thus accumulated, and force all potatoes, seed and table stock, to pass through their hands. "As this tax was not designed as much for the immediate protection of the industry as for the accumulation of working capital the dealers felt it necessary to test the legality of the whole scheme. "The potato dealers have offered, and are still willing to cooperate and work with any persons of good will in the interests of the potato industry of the Province, particularly where such matters as the protection from disease and advancement of sales are concerned."

FOR SALE
Residence at 53 Eustane St., Summerside. 9 rooms (4 bed rooms). Hot water heating. Cement basement. Double garage. Large corner lot. Inspection by appointment. Apply Law Office, R. S. HINTON, K. C., Summerside

S'SIDE ICE RACES
There will be a race on Summerside harbour on Saturday afternoon commencing at 1:30. COLT RACE—Calumet Etta, Coal Dust, Sandy's Squire, Rusty Boy. CLASS A PACE—Royal Jim, Bob Dale, C. Albert Budlong. CLASS A TROT—Joey Dale, Assyrian Dale, Guy Harvester. CLASS B PACE—Propane, Indian Lad, Top Score, Miss Hazel Grove, Just Lady, Black Toby.

SCIENTISTS MAKE Big Preparations For Sun's Eclipse
By Laurie Lawrence
KHARTOUM, Sudan, Jan. 30.—(Reuters)—A year's preparations by 14 expeditions of scientists seeking new facts about the sun will reach their culmination in a three-minute total eclipse near here Feb. 26. Thousands of dollars worth of delicate instruments will be used to record the eclipse as the sun leaves the Belgian Congo, crosses the Bahr El Ghazal and continues in a direct line over Khartoum, Shendi and Arba'at, and on to Saudi-Arabia, near Jidda. Complete-absence solar light will last only one minute—while the earth, moon and sun are in direct line. Then, as the moon and sun separate, light rays will again filter to earth. In that short space of time, the scientists must make all the observations they need, for the next total eclipse in this cycle will not take place until 1970, when it will be over Mexico, Georgia and Florida. Focal point of study by the astronomers and scientists will be the eclipse's complete shutdown of all radiation from the sun to earth. It now is known that heat and light, studied by observers in the 19th century, are not the only radiation emitted by the sun. Electro-magnetic radiation or radio waves can be received and measured. It is also known that the sun emits great streams of charged sub-atomic particles which travel much more slowly than electromagnetic waves and may take two or three days to make their journey to earth. During the three-minute eclipse, the scientists have only 60 seconds to record total obscuration of the sun. If they fail to obtain all their data and photographs in that time, they will have to wait another 18 years.

Bedeque Notes
—Mr. and Mrs. Percy Boyle and family, Hunter River, were visitors at Carleton Place on Sunday, Jan. 27th, guests of Mr. and Mrs. Ralph B. MacCaull. They also called on relatives at Bedeque. Dr. and Mrs. McVicar and three children, Charlottetown, were recent guests at the home of Mr. and Mrs. James Henderson. Dr. McVicar was a former resident doctor in Bedeque. Mrs. Carrie Schurman, who celebrated her 81st birthday on Sunday, Jan. 27th, received congratulations from her many friends and relatives in Bedeque and vicinity. Mrs. (Dr.) Howatt, who has been a patient in the Prince County Hospital, returned to her home here on Saturday, Jan. 26th. She had undergone an appendectomy and is making a good recovery. Rev. D. Burton Crowe, pastor of the Bedeque Church, left on Tuesday, Jan. 22nd, for Sackville, where he attended committee meetings in relation to the work of the United Church of Canada. Miss Ruth Johnson, daughter of Mr. Melville Johnson, Central Bedeque, has been transferred from Trenton, Ontario where she had been on the staff of the R.C.A.F. to the Summerside R.C.A.F. Training Centre. B.Q.

HOCKEY
BORDEN RINK TONIGHT
Borden Nationals Sisters VS. Summerside Sisters
Game starts 8:15
Admission 20 and 35 cents
Skate after game