S.C.C. Court File No. 37398

IN THE SUPREME COURT OF CANADA
(On Appeal from the New Brunswick Court of Appeal)

B E T W E E N:

HER MAJESTY THE QUEEN

Appellant

-and-

GERARD COMEAU

Respondent

-and-

ATTORNEY GENERAL OF CANADA, ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF NOVA SCOTIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL OF PRINCE EDWARD ISLAND, ATTORNEY GENERAL FOR SASKATCHEWAN, ATTORNEY GENERAL OF ALBERTA, ATTORNEY GENERAL OF NEWFOUDLAND AND LABRADOR, ATTORNEY GENERAL OF NORTHWEST TERRITORIES, GOVERNMENT OF NUNAVUT AS REPRESENTED BY THE MINISTER OF JUSTICE, LIQUIDITY WINES LTD., PAINTED ROCK ESTATE WINERY LTD., 50TH PARALLEL ESTATE LIMITED PARTNERSHIP, OKANAGAN CRUSH PAD WINERY LTD., NOBLE RIDGE VINEYARD AND WINERY LIMITED PARTNERSHIP, ARTISAN ALES CONSULTING INC., MONTREAL ECONOMIC INSTITUTE, FEDERAL EXPRESS CANADA CORPORATION, CANADIAN CHAMBER OF COMMERCE, CANADIAN FEDERATION OF INDEPENDENT BUSINESS, CANNABIS CULTURE, ASSOCIATION OF CANADIAN DISTILLERS, OPERATING AS SPIRITS CANADA, CANADA'S NATIONAL BREWERS DAIRY FARMERS OF CANADA, EGG FARMERS OF CANADA, CHICKEN FARMERS OF CANADA, TURKEY FARMERS OF CANADA, CANADIAN HATCHING EGG PRODUCERS, CONSUMERS COUNCIL OF CANADA, CANADIAN VINTNERS ASSOCIATION and ALBERTA SMALL BREWERS ASSOCIATION

Interveners

FACTUM OF THE INTERVENERS, DAIRY FARMERS OF CANADA, EGG FARMERS OF CANADA, CHICKEN FARMERS OF CANADA, TURKEY FARMERS OF CANADA AND CANADIAN HATCHING EGG PRODUCERS

(Pursuant to Rule 37 of the *Rules of the Supreme Court of Canada*)

CONWAY BAXTER WILSON LLP/s.r.l.
400-411 Roosevelt Ave.
Ottawa ON K2A 3X9

David K. Wilson (dwilson@conway.pro)
Owen M. Rees (orees@conway.pro)
Julie Mouris (jmouris@conway.pro)
Tel: 613.288.0149
Fax: 613.688.0271

Counsel for the Interveners: Dairy Farmers of Canada, Egg Farmers of Canada, Chicken Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers

ORIGINAL TO: **THE REGISTRAR**

COPIES TO:

Attorney General of New Brunswick
Public Prosecutions Branch
P.O. Box 6000, Carleton Place
Fredericton, NB E3C 5H1

William B. Richards
Kathryn A. Gregory
Tel.: (506) 453-2784
Fax: (506) 453-5364
E-mail: bill.richards@gnb.ca

Counsel for the Appellant,
Her Majesty the Queen

Gowling WLG (Canada) LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel.: (613) 786-8695
Fax: (613) 788-3509
E-mail: lynne.watt@gowlingwlg.com

Agent for the Appellant,
Her Majesty the Queen

AND TO:

Gardiner, Roberts LLP
Bay Adelaide Centre, East Tower
22 Adelaide St. W., Suite 3600
Toronto, ON M5H 4E3

Ian A. Blue, Q.C.
Arnold Schwisberg
Mikael Bernard
Tel.: (416) 865-2962
Fax: (416) 865-6636
E-mail: iblue@grllp.com

Counsel for the Respondent,
Gerard Comeau

Supreme Advocacy LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Agent for the Respondent,
Gerard Comeau

AND TO:

Procureur général du Canada
Complexe Guy-Favreau

Attorney General of Canada
500-50 O'Connor Street, Room 557

200, boul. René-Lévesque Ouest, Pièce 1202-23
Montréal, QC H2Z 1X4

François Joyal
Tel.: (514) 283-5880
Fax: (514) 496-7876
E-mail: francois.joyal@justice.gc.ca

Counsel for the Intervener,
Attorney General of Canada

Ottawa, ON K1A 0H8

Christopher M. Rupar
Tel.: (613) 670-6290
Fax: (613) 954-1920
E-mail: christopher.rupar@justice.gc.ca

Agent for the Intervener,
Attorney General of Canada

AND TO:

Attorney General of Ontario
720 Bay St., 4th Floor
Toronto, Ontario
M5G 2K1

Michael S. Dunn
Tel.: (416) 326-3867
Fax: (416) 326-4015
E-mail: michael.dunn@ontario.ca

Counsel for the Intervener,
Attorney General of Ontario

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, suite 1300
Ottawa, ON K1P 1J9

Nadia Effendi
Tel.: (613) 237-5160
Fax: (613) 230-8842
E-mail: neffendi@blg.com

Agent for the Intervener,
Attorney General of British Columbia

AND TO:

Procureur général du Québec
a/s Ministère de la Justice (droit autochtone)
1200 Route de l'Église, 2e étage
Québec, QC G1V 4M1

Jean-Vincent Lacroix
Laurie Anctil
Tel.: (418) 643-1477
Fax: (418) 644-7030

Counsel for the Intervener,
Attorney General of Quebec

Noël & Associés
111, rue Champlain
Gatineau, QC J8X 3R1

Pierre Landry
Tel.: (819) 771-7393
Fax: (819) 771-5397
E-mail: p.landry@noelassocies.com

Agent for the Intervener,
Attorney General of Quebec

AND TO:

Attorney General of Nova Scotia
1690 Hollis Street, 8th Floor
PO Box 7
Halifax, NS B3J 2L6

Edward A. Gores, Q.C.
Tel.: (902) 424-3297

Gowling WLG (Canada) LLP
2600-160 Elgin Street
Ottawa, Ontario
K1P 1C3

D. Lynne Watt
Tel.: (613) 786-8695

	Fax: (902) 424-1730 E-mail: edward.gores@novascotia.ca Counsel for the Intervener, Attorney General of Nova Scotia	Fax: (613) 788-3509 E-mail: lynne.watt@gowlingwlg.com Agent for the Intervener, Attorney General of Nova Scotia
AND TO:	**Attorney General of British Columbia** Legal Services Branch, 1001 Douglas St. PO Box 9280, Stn. Prov. Govt. Victoria, BC V8W 9J7 **J. Gareth Morley** Tel.: (250) 356-8584 Fax: (250) 953-3557 Counsel for the Intervener, Attorney General of British Columbia	**Borden Ladner Gervais LLP** World Exchange Plaza 100 Queen Street, suite 1300 Ottawa, ON K1P 1J9 **Nadia Effendi** Tel.: (613) 237-5160 Fax: (613) 230-8842 E-mail: neffendi@blg.com Agent for the Intervener, Attorney General of British Columbia
AND TO:	**Attorney General of Prince Edward Island** Department of Justice 95 Rochford Street, 5th floor, P.O. Box. 2000 Charlottetown, Prince Edward Island C1A 7N8 **James W. Gormley, Q.C.** **Jonathan M. Coady** Tel.: (902) 368-5486 Fax: (902) 368-4563 E-mail: rmdemone@gov.pe.ca Counsel for the Intervener, Attorney General of Prince Edward Island	**Gowling WLG (Canada) LLP** 160 Elgin Street Suite 2600 Ottawa, ON K1P 1C3 **D. Lynne Watt** Tel.: (613) 786-8695 Fax: (613) 788-3509 E-mail: lynne.watt@gowlingwlg.com Agent for the Intervener, Attorney General of Prince Edward Island
AND TO:	**Ministry of Justice Saskatchewan** Constitutional Law Branch 820-1874 Scarth St. Regina, SK S4P 4B3 **Theodore Litowski** Tel.: (306) 787-6642 Fax: (306) 787-9111 E-mail: theodore.litowski@gov.sk.ca	**Gowling WLG (Canada) LLP** 160 Elgin Street Suite 2600 Ottawa, ON K1P 1C3 **D. Lynne Watt** Tel.: (613) 786-8695 Fax: (613) 788-3509 E-mail: lynne.watt@gowlingwlg.com

Counsel for the Intervener,
Attorney General of Saskatchewan

Agent for the Intervener,
Attorney General of Saskatchewan

AND TO:

Attorney General of Alberta
4th Floor, Bowker Building
9833 - 109th Street
Edmonton, AB T5K 2E8

Robert J. Normey
Tel.: (780) 422-9532
Fax: (780) 425-0307
E-mail: robert.normey@gov.ab.ca

Counsel for the Intervener,
Attorney General of Alberta

Gowling WLG (Canada) LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel.: (613) 786-8695
Fax: (613) 788-3509
E-mail: lynne.watt@gowlingwlg.com

Agent for the Intervener,
Attorney General of Alberta

AND TO:

Attorney General of Newfoundland and Labrador
4th Floor, East Block
Confederation Bldg.
St. John's, NL A1B 4J6

Barbara Barrowman
Tel.: (709) 729-2869
Fax: (709) 729-2129

Counsel for the Intervener,
Attorney General of Newfoundland and Labrador

Gowling WLG (Canada) LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3

Robert E. Houston, Q.C.
Tel.: (613) 783-8817
Fax: (613) 788-3500
E-mail: robert.houston@gowlingwlg.com

Agent for the Intervener,
Attorney General of Newfoundland and Labrador

AND TO:

Attorney General of the Northwest Territories
4903 – 49th Street
PO Box 1320
Yellowknife, NT X1A 2L9

Bradley Patzer
Tel.: (867) 920-3248
Fax: (867) 873-0234
E-mail: brad_patzer@gov.nt.ca

Counsel for the Intervener, Attorney General of Northwest Territories

Gowling WLG (Canada) LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3

Guy Régimbald
Tel.: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Agent for the Intervener, Attorney General of Northwest Territories

AND TO:

Attorney General of the Nunavut Territory

Gowling WLG (Canada) LLP
160 Elgin Street

P.O. Box 1000, Station 540
Iqaluit, NU X0A 0H0

Adrienne Silk
John L. MacLean
Tel.: (867) 975-6172
Fax: (867) 975-6349

Counsel for the Intervener,
Government of Nunavut as represented by the Minister of Justic

Suite 2600
Ottawa, ON K1P 1C3

Guy Régimbald
Tel.: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Agent for the Intervener,
Government of Nunavut as represented by the Minister of Justice

AND TO:

COULSON LITIGATION
1500 - 885 West Georgia Street
Vancouver, BC V6C 3E8

Shea Coulson
Tel: (604) 398-4481
E-mail: scoulson@coulsonlitigation.com

Counsel for the Intervener,
Liquidity Wines Ltd.

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Agent for counsel for the Intervener,
Liquidity Wines Ltd

AND TO:

COULSON LITIGATION
1500 - 885 West Georgia Street
Vancouver, BC V6C 3E8

Shea Coulson
Tel: (604) 398-4481
E-mail: scoulson@coulsonlitigation.com

Counsel for the Interveners,
Painted Rock Estate Winery Ltd., 50th Parallel Estate Limited Partnership, Okanagan Crush Pad Winery Ltd. and Noble Ridge Vineyard and Winery Limited Partnership

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Agent for counsel for the Interveners,
Painted Rock Estate Winery Ltd., 50th Parallel Estate Limited Partnership, Okanagan Crush Pad Winery Ltd. and Noble Ridge Vineyard and Winery Limited Partnership

AND TO:

UNIVERSITY OF ALBERTA
Law Centre, 111 - 89 Avenue
Edmonton, AB T6G 2H5

Malcolm Lavoie
Tel: (780) 492-9809
Fax: (780) 492-4924

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580

E-mail: malcolm.lavoie@ualberta.ca

Counsel for the Intervener,
Artisan Ales Consulting Inc.

E-mail: mfmajor@supremeadvocacy.ca

Agent for counsel for the Intervener,
Artisan Ales Consulting Inc.

AND TO:

OSLER, HOSKIN & HARCOURT LLP
100 King Street West,
1 First Canadian Place, Suite 6200
Toronto, ON M5X 1B8

Mark A. Gelowitz
Robert Carson
Tel: (416) 862-4743
Fax: (416) 862-6666
E-mail: mgelowitz@osler.com

Counsel for the Intervener,
Montreal Economic Institute

OSLER, HOSKIN & HARCOURT LLP
340 Albert Street, Suite 1900
Ottawa, ON K1R 7Y6

Geoffrey Langen
Tel: (613) 787-1015
Fax: (613) 235-2867
E-mail: glangen@osler.com

Agent for counsel for the Intervener,
Montreal Economic Institute

AND TO:

MCMILLAN LLP
BCE Place, Suite 4400
181 Bay Street, Bay Wellington Tower
Toronto, ON M5J 2T3

Scott Maidment
Samantha Gordon
Tel: (416) 865-7911
Fax: (416) 865-7048

Counsel for the Intervener,
Federal Express Canada Corporation

MCMILLAN LLP
50 O'Connor Street
Suite 300
Ottawa, ON K1P 6L2

Jonathan O'Hara
Tel: (613) 232-7171 Ext: 122
Fax: (613) 231-3191
E-mail: jonathan.o'hara@mcmillan.ca

Agent for counsel for the Intervener,
Federal Express Canada Corporation

AND TO:

BORDEN LADNER GERVAIS LLP
Scotia Plaza, 40 King Street West
Toronto, ON M5H 3Y4

Christopher D. Bredt
Ewa Krajewska
Tel: (416) 367-6165
Fax: (416) 361-7063
E-mail: cbredt@blg.com

Counsel for the Intervener,
Canadian Chamber of Commerce,
Canadian Federation of Independent
Business

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, suite 1300
Ottawa, ON K1P 1J9

Nadia Effendi
Tel: (613) 237-5160
Fax: (613) 230-8842
E-mail: neffendi@blg.com

Agent for Counsel for the Intervener,
Canadian Chamber of Commerce,
Canadian Federation of Independent
Business

AND TO:

TOUSAW LAW CORPORATION
2459 Pauline Street
Abbotsford, BC V2S 3S1

Kirk Tousaw
Jack Lloyd
Tel: (604) 836-1420
Fax: (866) 310-3342
E-mail: kirktousaw@gmail.com

Counsel for the Intervener,
Cannabis Culture

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Agent for counsel for the Intervener,

AND TO:

POWER LAW
1600-401 West Georgia Street
Vancouver, BC V6B 5A1

Jennifer Klinck
Marion Sandilands
Madelaine Mackenzie
Kirsten Goodwin
Tel: (604) 260-4462
Fax: (902) 422-5797
E-mail: smscott@juristespower.ca

Counsel for the Intervener,
Association of Canadian Distillers,
operating as Spirits Canada

POWER LAW
1103 - 130 Alberts Street
Ottawa, ON K1P 5G4

Audrey Mayrand
Tel: (613) 702-5560
Fax: (613) 702-5560
E-mail: amayrand@juristespower.ca

Agent for counsel for the Intervener,
Association of Canadian Distillers,
operating as Spirits Canada

AND TO:

Gowling WLG (Canada) LLP
100 King Street West
Suite 1600
Toronto, ON M5X 1G5

Steven I. Sofer
Paul Seaman
Tel: (416) 369-7240
Fax: (416) 369-7250
E-mail: steven.sofer@gowlingwlg.com

Counsel for the Intervener,
Canada's National Brewers

Gowling WLG (Canada) LLP
160 Elgin Street
Suite 2600
Ottawa, ON K1P 1C3

Guy Régimbald
Tel: (613) 786-0197
Fax: (613) 563-9869

E-mail: guy.regimbald@gowlingwlg.com
Agent for counsel for the Intervener,
Canada's National Brewers

AND TO:

SISKINDS LLP
302-100 Lombard Street
Toronto, ON M5C 1M3

331 Somerset Street West
Ottawa, ON K2P 0J8

Paul Bates
Ronald Podolny
Tyler Planeta
Tel: (519) 672-2121
Fax: (519) 672-6065
E-mail: paul.bates@siskinds.com

Counsel for the Intervener,
Consumers Council of Canada

Michael J. Sobkin
Telephone: (613) 282-1712
FAX: (613) 288-2896
E-mail: msobkin@sympatico.ca

Agent for counsel for the Intervener,
Consumers Council of Canada

AND TO: **BENNETT JONES LLP**
Suite 3400, P.O. Box 130
One First Canadian Place
Toronto, ON M5X 1A4

Robert W. Staley
Ranjan K. Agarwal
Jessica M. Starck
Tel: (416) 777-4857
Fax: (416) 863-1716
E-mail: staleyr@bennettjones.ca

Counsel for the Intervener,
Canadian Vintners Association

AND TO: **BURNET, DUCKWORTH & PALMER**
2400, 525 - 8 Avenue SW
Calgary, AB T2P 1G1

Robert L. Martz
Paul G. Chiswell
Tel: (403) 260-0393
Fax: (403) 260-0332
E-mail: rmartz@bdplaw.com

Counsel for the Intervener,
Alberta Small Brewers Association

TABLE OF CONTENTS

PART I - OVERVIEW AND FACTS

1. This appeal is of extraordinary importance to the supply management sector, represented by the interveners, Dairy Farmers of Canada, Egg Farmers of Canada, Chicken Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers (collectively, "the SM-5"). The theory of unfettered free trade articulated in the Trial Decision would proscribe not only interprovincial tariffs, but also "non-tariff barriers" (expansively defined as restrictions that make importation or exportation of products more difficult or more costly).[1] If the respondent's position were adopted, it could result in the destruction of supply management – a regulatory system in place for generations, on which the livelihood of thousands of farmers across Canada depends.

2. The SM-5 submissions draw on a body of cases respecting interprovincial trade in agricultural products. The agriculture cases point to fundamental errors in the Trial Decision, and, of greater importance, suggest a path forward – an interpretation of s. 121 that is at once robust, balanced, grounded in the jurisprudence and reflective of the principles of federalism. The SM-5 accept the facts as set out in the appellant's factum.

PART II - ISSUES

3. The SM-5 will address s. 121 of the *Constitution Act, 1867*, but not the constitutionality of s. 134 of the New Brunswick *Liquor Control Act* (*"LCA"*).

PART III - ARGUMENT

A. Context: Interprovincial Trade in Alcohol and in Agricultural Products

4. Although the immediate focus of this appeal is on the constitutionality under s. 121 of a provincial liquor monopoly provision, it is helpful to look beyond liquor and consider how this Court has addressed related issues respecting interprovincial trade of agricultural products.

5. Federal and provincial governments struggled for many years with "inherent instability" and "chaos" in certain Canadian agricultural markets.[2] Following years of contentious constitutional battles and often unsuccessful attempts at regulation,[3] the policy response in the poultry and dairy

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[1] Trial Decision, Appellant's Record, Vol. 1, Tab 1 at para. 75 [Trial Decision].
[2] *Fédération des producteurs de volailles du Québec v. Pelland*, [2005] 1 S.C.R. 292 at para. 38 [*Pelland*]; *Reference re Agricultural Products Marketing*, [1978] 2 S.C.R. 1198 at 1251, 1268 [*Egg Reference*].
[3] See e.g. *Lawson v. Interior Tree Fruit and Vegetable Committee of Direction*, [1931] S.C.R. 357; *Lower Mainland Dairy Products Sales Adjustment Committee v. Crystal Dairy Limited*,

sectors was a national system of supply management built on the three pillars of production, pricing and import controls. Production targets are established in response to consumer demand and implemented through quotas. Producer pricing is regulated to stabilize the returns of producers. The federal government sets tariff-rate quotas to provide for a negotiated level of import access to Canada's trading partners, while imposing a customs tariff on over-quota imports.[4]

6. Constitutional authority over marketing is divided depending on whether the product is traded locally or extraprovincially. Thus, for such systems to be workable and constitutional, federal-provincial cooperation is essential. Provinces cannot "go it alone" and Parliament cannot either.[5]

7. Against this backdrop, supply management was created through a "sincere cooperative effort",[6] resulting in what Justice Abella described in *Pelland* as a "successful federal-provincial merger".[7] Each level of government "enacted laws and regulations, based on their respective legislative competencies, to create a unified and coherent regulatory scheme".[8] Provincial legislation authorized commodity boards to regulate production and intraprovincial marketing,[9] and Parliament authorized national marketing organizations to regulate interprovincial and export trade.[10] The dovetailing of the system is accomplished through a combination of delegation, incorporation by reference and parallel regulation, consistent with commitments undertaken in commodity-specific federal-provincial agreements.[11]

[1933] 1 D.L.R. 82 (J.C.P.C.) [*Crystal Dairy*]; *Attorney General for Manitoba v. Manitoba Egg and Poultry Association et al.*, [1971] S.C.R. 689 [*Manitoba Egg SCC*].

[4] Khamla Heminthavong, "Canada's Supply Management System", Library of Parliament, Parliamentary Information and Research Service, Publication No. 2015-138-E, 17 Dec. 2015, cited in Appellant's Factum at footnote 118.

[5] *Egg Reference*, *supra* note 2 at 1296; *British Columbia (Milk Marketing Board) v. Aquilini*, 1997 CanLII 2061 (B.C.S.C.) at para. 69.

[6] *Egg Reference*, *supra* note 2 at 1296-1297, Pigeon J.

[7] *Pelland*, *supra* note 2 at para. 38.

[8] *Ibid*.

[9] *Egg Reference*, *supra* note 2 at 1297; *Pelland*, *supra* note 2 at paras. 8, 22; *Allan v. Ontario (Attorney General)*, [2005] O.J. No. 3083 at paras. 5-6, 12-13 [*Allan*].

[10] *Farm Products Agencies Act*, R.S.C. 1985, c. F-4, see especially ss. 21-22; *Canadian Dairy Commission Act*, R.S.C. 1985, c. C-15, s. 9. The Canadian Dairy Commission also has import authority: see s. 9(1)(b).

[11] *Pelland*, *supra* note 2 at paras. 5-10, 38, 51-61; *Egg Reference*, *supra* note 2 at 1296-1297; *Allan*, *supra* note 9 at paras. 5-12.

8. There are obvious differences but also certain parallels in respect of interprovincial trade in liquor. In the post-Prohibition era, provincial legislatures established liquor boards, such as the New Brunswick Liquor Corporation, to control, among other things, the possession and marketing of liquor within the province.[12] For its part, as described by Iacobucci J. in *Air Canada,* Parliament enacted legislation to "assist the provinces in their efforts to control the traffic in liquor".[13] The federal *Importation of Intoxicating Liquors Act* ("*IILA*"), has thus made a "distinctively federal contribution to the securing of the provincial liquor monopolies".[14]

B. Jurisprudence: Agricultural Caselaw on s. 121

9. In 1958, Rand J. sowed the seeds of the modern interpretation of s. 121 in *Murphy,*[15] concerning federal grain pooling and transportation measures. Relying on *Gold Seal,*[16] the majority dismissed the s. 121 challenge, holding that the measures were not in the nature of customs duties.[17] In concurring reasons, Rand J. (supported by Cartwright J.) adopted a broader interpretation of s. 121 as also "aimed against trade regulation which is designed to place fetters upon or raise impediments to or otherwise restrict or limit" interprovincial trade. He held that s. 121 permits "a free flow of trade regulated in subsidiary features" and "does not create a level of trade activity divested of all regulation". The focus of the prohibition in s. 121, Rand J. ruled, is on "trade regulation that in its essence and purpose is related to a provincial boundary".[18] In short, the Rand interpretation: a) focuses on the design of the measure; b) permits regulation of trade in its subsidiary features; and c) forbids trade regulation if its essence and purpose is related to a provincial boundary.

10. The Rand interpretation was cited with approval in 1970 in *Manitoba Egg,*[19] at the height of the "chicken and egg wars" before supply management was introduced nationally. The Manitoba Court of Appeal (per Dickson J.A., as he then was) found that the proposed provincial scheme

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[12] *R. v. Gautreau* (1978), 21 N.B.R. (2d) 701 (N.B.C.A.) at 723 [*Gautreau*].
[13] *Air Canada v. Ontario (Liquor Control Board),* [1997] 2 S.C.R. 581 at para. 44 [*Air Canada*].
[14] *Ibid*.
[15] *Murphy v. C.P.R.,* [1958] S.C.R. 626 [*Murphy*].
[16] *Gold Seal Ltd. v. Alberta (Attorney-General)* (1921), 62 S.C.R. 424 [*Gold Seal*].
[17] *Murphy*, *supra* note 15 at 634.
[18] *Ibid* at 638-642.
[19] *Order in Council 1083/70 re Provincial Control of Agricultural Products (Re)* (1971), 18 D.L.R. (3d) 326 (Man. C.A.).

raised "direct and substantial impediments" to interprovincial trade and was contrary to s. 121.[20] He contrasted the more restrictive approach to s. 121 in *Gold Seal* with the broader approach adopted by Rand J. in *Murphy*. Dickson J.A. supported the Rand interpretation as a "refinement of interpretation", as opposed to a departure from basic principles.[21] The Supreme Court of Canada dismissed the appeal without finding it necessary to address s. 121.[22] In a concurring decision, Laskin J. (as he then was), concurred in by Hall J., touched on s. 121, observing that "[i]f it be thought necessary or desirable to arrest such movement at any provincial border then the aid of the Parliament of Canada must be sought…".[23]

11. The seminal supply management case is the 1978 *Egg Reference*.[24] Laskin C.J.C. (writing for four justices) discussed s. 121 at length,[25] together with division of powers and administrative law (delegation) issues. The relatively brief majority reasons of Pigeon J. (writing for five justices) did not explicitly address s. 121. Several points stand out in the decision:

a) Laskin C.J.C. discussed the *Gold Seal* interpretation of s. 121 as "prohibiting the levying of customs duties or like charges" in interprovincial trade, but also accepted Rand J.'s "broader interpretation" of s. 121 in *Murphy*. He found that nothing in the marketing scheme for eggs "is *in its essence and purpose* related to a provincial boundary" [emphasis in original]. More specifically, he upheld the constitutionality of federal measures that "take into account patterns of production in the various Provinces in attempting to establish an equitable basis for the flow of trade".[26]

b) Laskin C.J.C. held that s. 121 would be breached by "punitive regulation directed in favour of or against any province", but that this did not apply to the egg marketing scheme.[27] He also added an important qualification to *Atlantic Smoke Shops*,[28] holding that the

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[20] *Ibid* at 340-341.
[21] *Ibid* at 336-337.
[22] *Manitoba Egg SCC, supra* note 3.
[23] *Ibid* at 717.
[24] *Supra* note 2.
[25] See also *Reference re Agricultural Products Marketing Act* (1977), 16 O.R. (2d) 451 at paras. 489, 503-504 (Ont. C.A.) [*Egg Reference ONCA*].
[26] *Egg Reference, supra* note 2 at 1267-1268.
[27] *Ibid* at 1268.
[28] *Atlantic Smoke Shops Limited v. Conlon*, [1943] 4 D.L.R. 81 at 92 (J.C.P.C.), cited in *Egg Reference, supra* note 2 at 1267.

application of s. 121 may differ according to whether federal or provincial legislation is involved, particularly factoring in the trade and commerce power under s. 91(2).[29]

c) The s. 121 challenge was not only directed at federal measures, but more generally at "the interlocking schemes [which] interfere with the free flow of trade interprovincially".[30] In that regard, the majority finding of Pigeon J. from a division of powers perspective is significant. Pigeon J. held that "a province cannot control extraprovincial trade", while supporting as "perfectly legitimate" the ability of provinces to use of "provincial control to complement federal regulation of extraprovincial trade".[31] He underscored the necessity of federal-provincial cooperation "in respect of a commodity which all governments concerned agree requires regulation in both intraprovincial and extraprovincial trade". He cited the exhaustiveness doctrine: "whatever belongs to self-government in Canada belongs either to the Dominion or to the provinces".[32]

d) The *Egg Reference* also addressed *Crystal Dairy*,[33] a Privy Council decision about whether a marketing levy should be treated as a form of taxation for constitutional purposes. Laskin C.J.C. held that the Court of Appeal majority rightly treated *Crystal Dairy* as binding unless varied by the Supreme Court of Canada.[34] After a careful analysis of subsequent caselaw, he concluded *Crystal Dairy* had been "attenuated by succeeding cases" and should be overturned,[35] while taking care to note this would not be catastrophic for the egg levy system in question.[36] Pigeon J. agreed, both that *Crystal Dairy* should be overruled, and that the resulting problem with the egg levy system could readily be cured.[37]

12. Section 121 was further addressed in 1998 in *Richardson.*[38] Although the focus of *Richardson* was on s. 6 mobility guarantees under the *Canadian Charter of Rights and Freedoms*, s. 121 was discussed in both the majority and minority opinions following a request from the Court for

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[29] *Egg Reference*, *supra* note 2 at 1267.
[30] *Ibid* at 1220. See also *Egg Reference ONCA*, *supra* note 25 at 489, 503-504.
[31] *Egg Reference*, *supra* note 2 at 1296-1297.
[32] *Ibid* at 1296.
[33] *Supra* note 3.
[34] *Egg Reference*, *supra* note 2 at 1229.
[35] *Ibid* at 1229-1257.
[36] *Ibid* at 1257.
[37] *Ibid* at 1291-1292.
[38] *Canadian Egg Marketing Agency v. Richardson*, [1998] 3 S.C.R. 157 [*Richardson*].

comments on s. 121 by the parties.[39] The majority (per Iacobucci and Bastarache JJ.) compared the *Gold Seal* interpretation of s. 121 to the Rand-Laskin interpretation in *Murphy* and the *Egg Reference*, which "defined the scope of s. 121 somewhat more broadly".[40] Iacobucci and Bastarache JJ. also referred to a 1982 federal proposal to broaden s. 121's scope, which was rejected by nine out of ten provinces and never pursued.[41] In a similar vein, McLachlin J. (as she then was, dissenting but not on this issue) situated s. 121 in the larger Canadian constitutional structure, which, she said, "represents a historical compromise between regional interests and the vision of economic union".[42] She expressed support for the Rand-Laskin interpretation of s. 121, while observing that s. 121 "permits legislation which incidentally impinges on the flow of goods and services across provincial boundaries".[43]

13. The *Pelland* decision in 2005 was not specifically directed at s. 121 but reaffirmed the *Egg Reference* in concluding that the federal-provincial chicken marketing scheme is constitutional and can limit the production of chicken destined exclusively for the interprovincial market.[44] Speaking for the Court, Justice Abella ruled that the delegation of regulatory powers, including the referential incorporation of provincial marketing laws by the federal body, "falls squarely within" the jurisprudence on "administrative delegation in aid of cooperative federalism".[45]

C. Insights: Four Key Lessons from the Agriculture Cases

14. Important insights relevant to this appeal can be distilled from these agricultural cases, particularly when read together with the division of powers jurisprudence of this Court.

15. First, the agriculture cases point to a more nuanced and progressive view of s. 121 than suggested by *Gold Seal* alone. Thus, it is inaccurate to describe *Gold Seal* as being of "singular importance"[46] to the scope of s. 121, and as interpreted "to ring the death knell" to constitutionally protected interprovincial free trade.[47] The Rand-Laskin interpretation of s. 121, contrary to the

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[39] *Ibid* at para. 66.
[40] *Ibid* at paras. 63-64.
[41] *Ibid* at para. 65.
[42] *Ibid* at para. 123.
[43] *Ibid* at para. 123.
[44] *Pelland*, *supra* note 2 at paras. 36-38.
[45] *Ibid* at para. 55.
[46] Trial Decision, *supra* note 1 at para. 102.
[47] *Ibid* at para. 107.

contention by the respondent,[48] goes well beyond simply a prohibition of customs tariffs affecting interprovincial trade.[49] In the event the Rand-Laskin interpretation is adopted in this appeal, the focus would not be on a binary tariff/non-tariff distinction, but on whether s. 134 of the *LCA, in its essence and purpose,* relates to a provincial boundary.

16. Second, the agriculture cases confirm that s. 121 is to be construed within the architecture of the Constitution, rather than treated as a stand-alone and absolute free trade guarantee. As the Court held in the *Secession Reference*, "[t]he individual elements of the Constitution are linked to the others, and must be interpreted by reference to the structure of the Constitution as a whole".[50] That constitutional structure, as explained in *Richardson,* "represents a historical compromise between regional interests and the vision of economic union".[51] In keeping with this structure, the agriculture cases suggest s. 121 is to be read in the context of, rather than separate and apart from, the powers accorded by ss. 91 and 92.

17. In order to give effect to the principle of federalism built into our constitution, this Court has devised a flexible "pith and substance" analysis, which focuses on the "dominant purpose" of impugned legislation, as opposed to merely "incidental effects".[52] Incidental effects "may be of significant practical importance but are collateral and secondary to the mandate of the enacting legislature".[53] The Rand-Laskin "essence and purpose" interpretation of s. 121 has close parallels to pith and substance analysis. It is also notable that pith and substance analysis has been applied to legislation challenged based on s. 125 of the *Constitution Act, 1867,* which is analogous to s. 121 in constraining both federal and provincial governments.[54]

18. The agriculture cases give further effect to the principle of federalism – "the lodestar by which the courts have been guided"[55] – in rejecting the proposition that s. 121 guarantees "absolute freedom of trade" within Canada.[56] As Rand J. held in *Murphy*, s. 121 "does not create a level of

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[48] Respondent's Factum at para. 77.
[49] Trial Decision, *supra* note 1 at para. 187.
[50] *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217 at para. 50 [*Secession Reference*].
[51] *Richardson*, *supra* note 38 at para. 123.
[52] *Canadian Western Bank v. Alberta*, [2007] 2 S.C.R. 3 at paras. 25-29 [*Canadian Western*].
[53] *Ibid* at para. 28.
[54] See e.g. *Westbank First Nation v. British Columbia Hydro and Power Authority*, [1999] 3 S.C.R. 134 at para. 30.
[55] *Secession Reference*, *supra* note 50 at para. 56.
[56] *Egg Reference*, *supra* note 2 at 1267.

trade activity divested of all regulation".[57] Similarly, as Laskin C.J.C. held in the *Egg Reference*, s. 121 does not preclude federal marketing legislation "attempting to establish an equitable basis for the flow of trade".[58] In other words, the words "admitted free" in s. 121 do not mean admitted free of regulation, particularly taking into account the federal power over the regulation of trade and commerce in s. 91(2). To contend that s. 121 guarantees "unfettered", "unqualified" or "unrestrained" free trade[59] would, in the parlance of *Montreal Protestant School Board,*[60] "improperly amplify" the legal character and purpose of s. 121.

19. Third, the agriculture cases exemplify the foundational principle that "constitutional doctrine must facilitate, not undermine" cooperative federalism.[61] This is not simply a "request for accommodation", as suggested by the trial judge.[62] It is a "fundamental guiding principle"[63] of our Constitution. The agriculture cases suggest that respect for cooperative federalism should inform the constitutional analysis of legislative measures from the outset, rather than operate as a *post facto* justificatory mechanism akin to s. 1 of the *Charter*.

20. In *Pelland*, Abella J. said of the cooperative federal-provincial supply management system for chicken that it "both reflects and reifies Canadian federalism's constitutional creativity and cooperative flexibility".[64] More generally, cooperative federalism has been credited with allowing for "a continuous redistribution of powers and resources without recourse to the courts or the amending process".[65] This stands in stark contrast to the respondent's characterization of cooperative federalism as a "continuing failure" that prioritizes "short term interests of politicians and their favoured constituencies".[66]

21. To be clear, cooperative federalism does not do away with constitutional limits and requirements. Thus, in the *Egg Reference,* Pigeon J. was alive to the admonition that cooperative

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[57] *Murphy*, *supra* note 15 at 642.
[58] *Egg Reference*, *supra* note 2 at 1268.
[59] Trial Decision, *supra* note 1 at para. 178; Respondent's Factum at paras. 34, 50.
[60] *Greater Montreal Protestant School Board v. Quebec (Attorney General),* [1989] 1 S.C.R. 377.
[61] *Canadian Western*, *supra* note 52 at para. 24.
[62] Trial Decision, *supra* note 1 at para. 165.
[63] *Canadian Western*, *supra* note 52 at paras. 21-24.
[64] *Pelland*, *supra* note 2 at para. 15.
[65] *Quebec (Attorney General) v. Canada (Attorney General),* [2015] 1 S.C.R. 693 at para. 17.
[66] Respondent's Factum at paras. 7, 9.

legislation "has to be carefully framed", and that "a province cannot control extraprovincial trade". At the same time, he strongly supported the legitimacy of provincial laws complementary to federal regulation of interprovincial trade.[67] Similar reasoning was adopted by the Alberta Court of Appeal in *Leth Farms* in upholding the principle derived from the *Egg Reference* that "[c]ourts should strive to give effect to cooperative federal and provincial marketing schemes based on interlocking quotas and levies".[68]

22. The agriculture cases also indicate that, where governments work together to create a unified regulatory scheme, it is crucially important to have regard to the scheme in its entirety and not construe impugned provisions in isolation. Thus, in this appeal, the constitutionality of the provincial liquor monopoly in s. 134 of the New Brunswick *LCA* should be considered in the context of the support for securing that monopoly in s. 3 of the federal *IILA.*[69]

23. Fourth, the agriculture cases provide guidance on how to approach long-standing constitutional decisions attenuated by subsequent case law. Faced with uncertainty concerning *Crystal Dairy*, the Supreme Court in the *Egg Reference* took great care to adopt an incremental approach while judiciously weighing the implications for the challenged scheme as a whole.

24. Caution is especially warranted in any re-examination of *Gold Seal* or other s. 121 case law based on drafting history and historical context. In this regard, the SM-5 agrees with the appellant and a number of the government interveners that the trial decision runs counter to *Bedford*.[70] The historical record surrounding the drafting of s. 121 is "weak, making it difficult to determine, definitively, the intentions of any of the framers".[71] Specific issues include the following:

a) The speech by Lord Carnarvon before the British Parliament, said to show an intent to focus on "non-tariff barriers",[72] made no mention of s. 121, and all of the "non-tariff barriers" cited refer to specific heads of federal power in s. 91.

b) Similarly, the speeches by the Fathers of Confederation, said by the trial judge to show the

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[67] *Egg Reference*, *supra* note 2 at 1296-1297.
[68] *Leth Farms Ltd. v. Alberta Turkey Growers Marketing Board*, 2000 ABCA 32, at para ssss.
[69] See *Air Canada*, *supra* note 13 at paras. 53-55, referring to *Gautreau*, *supra* note 12.
[70] *Canada (Attorney General) v. Bedford*, [2013] 3 S.C.R. 1101.
[71] P.W. Hogg & W.K. Wright, "Canadian Federalism, the Privy Council and the Supreme Court: Reflections on the Debate about Canadian Federalism" (2005), 38(2) U.B.C.L.R. 329 at 331.
[72] Trial Decision, *supra*, note 1 at paras. 98-99.

intent behind s. 121,[73] all predate the drafting of that provision.

c) Indeed, from a review of the record before the Court, there does not appear to be a single contemporaneous statement of intent directly concerned with s. 121.

d) Paradoxically, the respondent's expert[74] relies on a sweeping 21st century definition of "non-tariff barriers", while suggesting the Fathers of Confederation sought to address non-tariff barriers, so defined, "more than a century earlier". That definition is said to include "technical standards, quotas, levies, embargoes, border impediments, sanctions and outright trade restrictions, which are in the nature of impediments or fetters".

25. As the Court warned in *Moriarity*, legislative statements of purpose may be "vague and incomplete and inferences of legislative purpose may be subjective and prone to error".[75] Given the weakness of the historical record, that warning is particularly apt in this case.

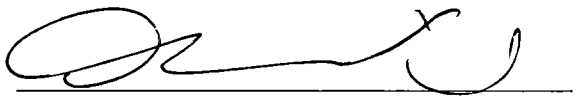
D. Conclusion

26. The agriculture cases point to an interpretation of s. 121 that is at once robust, balanced, grounded in the jurisprudence and reflective of the principle of federalism. The SM-5 urge the Court to heed the lessons from the agriculture cases with a view to maintaining proportionality, certainty and predictability in the interpretation of our Constitution.

PARTS IV AND V - COSTS AND ORDER SOUGHT

27. The SM-5 seek no costs on the appeal, and ask that no costs be ordered against them.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of November, 2017.



David K. Wilson
Owen M. Rees
Julie Mouris

Counsel for the Interveners: Dairy Farmers of Canada, Egg Farmers of Canada, Chicken Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers ("SM-5")

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[73] *Ibid* at paras. 91-97; Respondent's Factum at para. 35.
[74] Appellant's Record, Vol. V, Tab 30 at 130.
[75] *R. v. Moriarity*, [2015] 3 S.C.R. 485 at para. 31.

PART VI - TABLE OF AUTHORITIES

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15	*Leth Farms Ltd. v. Alberta Turkey Growers Marketing Board*, 2000 ABCA 32	21
16	*Lower Mainland Dairy Products Sales Adjustment Committee v. Crystal Dairy Limited*, [1933] 1 D.L.R. 82 (J.C.P.C.)	5, 11.d), 23

17	*Murphy v. C.P.R.*, [1958] S.C.R. 626	9, 10, 11.a), 12, 18
18	*Order in Council 1083/70 re Provincial Control of Agricultural Products (Re) ("Manitoba Egg")* (1971), 18 D.L.R. (3d) 326 (Man. C.A.)	10
19	*Quebec (Attorney General) v. Canada (Attorney General)*, [2015] 1 S.C.R. 693	20
20	*R. v. Gautreau* (1978), 21 N.B.R. (2d) 701 (N.B.C.A.)	8, 22
21	*R. v. Moriarity*, [2015] 3 S.C.R. 485	25
22	*Reference re Agricultural Products Marketing ("Egg Reference")*, [1978] 2 S.C.R. 1198	5, 6, 11, 12, 13, 18, 21, 23
23	*Reference re Agricultural Products Marketing Act* (1977), 16 O.R. (2d) 451 (Ont. C.A.)	11, 11.c)
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26	Khamla Heminthavong, "Canada's Supply Management System", Library of Parliament, Parliamentary Information and Research Service, Publication No. 2015-138-E, 17 Dec. 2015	5
27	P.W. Hogg & W.K. Wright, "Canadian Federalism, the Privy Council and the Supreme Court: Reflections on the Debate about Canadian Federalism" (2005), 38(2) U.B.C.L.R. 329	24