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Article 27

Bogoch Seed Co. Ltd. v. C.P.R. and C.N.R., [1963] S.C.R. 247

R. J. H.

I. INTERPRETATION

Bogoch Seed Co. Ltd. v. C.P.R. & C.N.R., [1963] S.C.R. 247.

In 1897 an agreement was entered into between the C.P.R. and the Crown by which a subsidy was granted to the C.P.R. in return for an agreement to charge reduced rates for certain "grains" on the C.P.R. lines. Certain specified grains were listed but no reference was made to rapeseed. The question on appeal was whether rapeseed is a "grain" within the meaning of the Crow's Nest Pass Act 1897 and therefore entitled to a reduced rate.

Martland J. delivering the judgment of the court agreed with the Board in dismissing the appeal and holding that "grain" did not include rapeseed. He distinguished the case of *British Coal Corp. v. The King* [1935] A.C. 500 which held that "in interpreting a constituent or organic statute, . . . that construction most beneficial to the widest possible amplitude of its powers must be adopted." That case did not apply here because the purpose of the Act was to give effect to an agreement between two parties who only contemplated the effecting of a reduction in rates then applicable or what both parties, at that time, regarded as being grain. The rule followed in this case was stated in *Sharpe v. Wakefield* [1889] 22 Cl. B.D. 239 at 242 by Lord Esher who said ". . . the words of a statute must be construed as they would have been the day after the statute was passed, unless some

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[9] *Cooper v. Slade* (1858) 6 H.L. Cas. 746; *Doe dem Devine v. Wilson et al.* (1855) 10 Moo. P.C.C. 502; *Clark v. King* (1921) 61 S.C.R. 608; *Smith v. Smith and Smedman* [1952] 2 S.C.R. 312; *New York Life Ins. Co. v. Schlett* [1945] S.C.R. 289; *Industrial Acceptance Corp. v. Couture* [1954] S.C.R. 34.

[10] [1963] S.C.R. 154.

subsequent statute has declared that some other construction is to be adopted or has altered the previous statute."

It was found here as a question of fact that rapeseed would not have been considered a grain in 1897 in Canada. Whether it is a "grain" today is another matter.

This was largely an academic question because the statute has been revised since the commencement of this action and rapeseed is specifically listed as a grain to receive rail reductions under the Act. R.J.H.