

HIS MAJESTY THE KING, ON THE
 INFORMATION OF THE ATTOR-
 NEY-GENERAL OF CANADA..... } PLAINTIFF;

1935
 Apr. 29.
 May 3.

AND

MONTREAL STOCK EXCHANGE.... DEFENDANT.

AND

HIS MAJESTY THE KING, ON THE
 INFORMATION OF THE ATTOR-
 NEY-GENERAL OF CANADA..... } PLAINTIFF;

AND

EXCHANGE PRINTING COMPANY.. DEFENDANT.

*Revenue—Sales Tax—Newspapers—Stock exchange sheets—Special War
 Revenue Act, R.S.C. 1927, c. 179, Schedule III.*

Held: That sheets or papers printed and circulated semi-daily and weekly among subscribers by the defendants herein are “newspapers” within the meaning of Schedule III of the Special War Revenue Act, R.S.C. 1927, c. 179, and therefore not subject to the sales tax imposed by that statute.

ACTIONS by the Crown to recover certain amounts alleged to be due by the defendants for sales tax.

The actions were tried before the Honourable Mr. Justice Maclean, President of the Court, at Ottawa.

F. P. Varcoe, K.C. for the Crown.

L. A. Forsyth, K.C. and *G. F. Osler* for the defendants.

The facts are stated in the reasons for judgment.

THE PRESIDENT, now (May 3, 1935) delivered the following judgment:

In these two Informations it is claimed by the plaintiff, that in the period 1920 to 1927 inclusive, the first named defendant printed, produced or manufactured and sold, printed matter and thereby became liable to the sales tax imposed by the Special War Revenue Act, R.S.C. 1927,

chap. 179, sec. 86, and similarly the second named defendant for the period of 1931 to 1934 inclusive.

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The provisions of the Special War Revenue Act which are relevant to the controversy here may at once be mentioned. Sec. 86 provides that "there shall be imposed, levied and collected a consumption or sales tax of six per cent on the sale price of all goods, (a) produced or manufactured in Canada, payable by the producer or manufacturer at the time of the delivery of such goods to the purchaser thereof" and (b) "imported into Canada payable by the importer or transferee who takes the goods out of bond for consumption . . ." By sec. 85 (f) the expression "producer or manufacturer" is to be construed as including "any printer, publisher, lithographer or engraver. . . ." Sec. 89 (1) is to the effect that the tax imposed by sec. 86 of the Act shall not apply to the sale or importation of articles mentioned in Schedule III of the Act, and the Schedule includes "newspapers and quarterly, monthly, bi-monthly, and semi-monthly magazines and weekly literary papers unbound . . . and material used exclusively in the manufacture or production thereof."

Maclean J.

The facts may be briefly stated. For the period 1920 to 1927, the Montreal Stock Exchange, hereinafter called the "Exchange," printed twice daily, in the forenoon and afternoon, whenever the Exchange was in session, a two-page paper which it will be convenient hereafter to refer to as a "sheet," or "sheets," giving the daily transactions of the Exchange, and also a similar sheet giving the daily transactions of the Montreal Curb Market, hereinafter to be called the Curb, the purpose being to give a complete daily record of all sales on the Exchange, and the Curb, that is, the volume of shares bought and sold and the price quotations of such transactions. There were also published two weekly sheets of four pages each, being as I understand it, a résumé of the week's transactions on the Exchange, and on the Curb, respectively. The name of one sheet was "Montreal Stock Exchange," the other being "Montreal Curb Market," each bearing the precise date of issue. From the exhibits put in evidence it would appear that the daily sheets contained printed matter on both sides. Frequently these sheets would contain notices as to the payment of dividends, passing of dividends, an-

nual or special meetings, loss of certificates, and generally matters of special importance relative to companies listed on the Exchange, and which would be of interest to Exchange members and subscribers; I assume that this practice also applied in the case of the daily sheets publishing Curb transactions, and the companies whose shares were dealt in on the Curb, though of this I am not quite sure. These printed sheets were in the main delivered by hand to subscribers, and the subscription price exacted and paid was at the rate of \$6 per quarter if two sheets were taken by a subscriber; the subscription price declined as the number of sheets subscribed for by each person increased; the sheets were not obtained by members of the Exchange or the Curb, as a privilege of membership in either body. Other subscribers, relatively small in number, included outside exchanges in Canada and the United States, banks, trust companies, and statistical institutions, to whom the sheets were mailed by letter-post. Subscriptions would be sold to any person on application whether or not he was a member of the Exchange or the Curb.

With the period from 1927 to 1931 we are not concerned as the sales tax was apparently paid in that period. For the period, 1931 to 1934, the sheets mentioned and described were printed and circulated by the defendant Exchange Printing Company, a corporation whose stock was owned by the Exchange, and whose directors were in effect selected by the directors or the governing body of the Exchange. The defendant Exchange Printing Company did and does job-printing work for customers unassociated with the Exchange or Curb, and upon such work the sales tax was paid. The sheets, in this period, were printed and circulated by the Exchange Printing Company to subscribers, on the terms, and in the manner, as when the Exchange, in the earlier period, printed and circulated the same.

It will be seen therefore that the point for determination is whether the sheets published formerly by the Exchange, and now by the Exchange Printing Company, are "newspapers" within the meaning and intent of the Act; if they are, it is agreed, the plaintiff must fail. I was referred to many dictionary meanings of the word "newspaper." Webster's New International Dictionary defines "newspaper" as "a paper printed and distributed, at stated in-

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tervals, . . . to convey news, . . . and other matters of public interest." The Encyclopaedia Britannica, 11th Ed., Vol. 19, states that "the word 'newspaper' as now employed, covers so wide a field that it is difficult, if not impossible, to give it a precise definition," and it gives the definition of "newspaper" contained in the English "Newspaper Libel and Registration Act," as "any paper containing public news, intelligence or occurrences, or any remarks or observations therein printed for sale, and published periodically, or in parts or in numbers at intervals. . . ." The Concise Oxford Dictionary defines "news" as "tidings, new information, fresh events reported," and "newspaper" as a "printed publication." Any assistance that is to be derived from any other of the cited standard dictionaries is much to the same effect.

The definition given to "newspaper" in other statutes I do not find helpful, and as stated by Duff J., in *Miln-Bingham Printing Co. Ltd. v. The King* (1), the usage of that word in other statutes may be looked at, if the other statute happens to be *in pari materia*, but it is altogether a fallacy to suppose that because two statutes are *in pari materia*, a definition clause in one can be bodily transferred to the other. Under the Post Office Act, chap. 161, R.S.C. 1927, in order that newspapers may obtain the statutory postage rate they must conform to certain specifications, and for that purpose, and for that purpose only, a definition is given of a "newspaper" by sec. 23. In this case the sheets were almost wholly delivered by hand, in order to be useful to subscribers, and those forwarded by mail paid the letter postage. It is not required by law that newspapers be forwarded to subscribers through the post office. The Post Office Act does not therefore assist us.

It seems to me that the sheets in question here, printed and circulated semi-daily and weekly among subscribers, containing news of very great importance to subscribers, must fall within the designation of a "newspaper"; they contain news printed on paper at fixed intervals, for the information of subscribers, and for a consideration. To say this publication is not a newspaper is, I think, to disregard actual facts, and the common sense of the matter. The demand for it, twice daily, and at specific hours of the

day, distinctly mark it as a publication containing news, devoted to special interests, news that had to be quickly communicated after the transpiry of the events which comprise the subject matter printed in the sheets. A paper is none the less a newspaper because it is devoted primarily to special interests, or because it had a limited circulation, or because it is not ordinarily circulated through the mails. The special news contained in these sheets is also regularly printed on certain pages of the Montreal daily press, and this is ordinarily regarded as news, as, I think, it must be here.

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Another method, by which one might inquire if the sheets come within the definition of a "newspaper," would be to inquire what was intended by the legislature to fall within sec. 85 (f). I think that subsection read along with sec. 86 was intended to refer to articles or goods manufactured and carried in stock, by a printer, for sale to customers, such as, for example, legal forms, or bill-heads, which are frequently carried by other merchandisers, or the same articles produced or manufactured to order by a printer, to be delivered on completion to the person ordering the same. Such articles might appropriately be described as "goods," but I doubt if the sheets in question could be properly so referred to. In the former instances the sales tax might and likely would form a part of the cost to the purchaser or customer, but I do not think this was intended in the case of such publications as are here in question. I am not satisfied that the legislature had it in mind to impose a sales tax on publications of this kind, which, in the generally received sense of the word would not be regarded as "goods" or "articles" produced or manufactured, or imported, for consumption. In any event, it is very far from clear that the legislature intended to impose the sales tax upon the publications here in question, and for that reason the plaintiff should fail.

Accordingly, I am of the opinion that the printed publications here are "newspapers"; I feel quite confident that such was the intention of the legislature, and I cannot see that they can be designated as anything else. These two actions, heard together, are therefore dismissed with costs.

Judgment accordingly.