an intergovernmental arrangement or commitment". I cannot presume that the Governor in Council has acted contrary to the law.

I would dismiss the appeal.

CASEY, J.A.:—Whatever may be the normal meaning of the words "goods" or "marchandises" the Act extends them to anything that, in the opinion of the Executive, should be controlled for the purposes set out in s. 3. This language is broad enough to include silver in all its forms.

I would dismiss this appeal.

HYDE, J.A.:—Appellant has appealed from his conviction by a Judge of the Court of Sessions of the Peace, District of Iberville, on July 9, 1968, following a plea of guilty upon the following charge:

> Dennis H. BEHM of the City of Brooklyn of United States of America in the State of New York did, on or about the 8th JULY 1968 at Blackpool in the said District and Province, did without the authority in writing of The Minister, unlawfully and knowingly commit acts in Canada that caused or assisted or were intended to cause or assist a shipment of goods to wit: an amount of approximately $22,000.00 (twenty-two Thousand dollars) in Canadian $0.25 and $0.10 silver coins, which are included in the Export Control List and shown as Item No. 5666 thereon, to be made, from Canada to the United States of America, which Country is included in the area Control List, the whole contrary to Section 15 of the Export and Import Permits Act, 1953-54, c. 27 and amendments, thereby committing a criminal offence.

He was sentenced to a fine of $5,000 and in default to imprisonment for one year.

By his appeal appellant now asks that his conviction be set aside as the offence for which he was charged is based on:

> Order-in-Council P.C. 1967-35 of January 12, 1967 (SOR/67-49), which is illegal, ultra vires and of no legal effect, since the Governor-in-Council lacked authority to pass it under the *Export and Import Permits Act*, S.C. 1953-54, c. 27 and its amendments.

Section 3 of the *Export and Import Permits Act* reads as follows:

> 3. The Governor in Council may establish a list of goods, to be called an Export Control List, including therein any article the export of which he deems it necessary to control for any of the following purposes, namely,
>
> (*a*) to ensure that arms, ammunition, implements or munitions of war, naval, army or air stores or any articles deemed capable of being converted thereinto or made useful in the production thereof or otherwise having a strategic nature or value will not be made available to any destina-

tion wherein their use might be detrimental to the security of Canada;

(*b*) to implement an intergovernmental arrangement or commitment; or

(*c*) to ensure that there is an adequate supply and distribution of such article in Canada for defence or other needs.

Item 5666 in the export control list was enacted by Order in Council, P.C. 1967-1122 [SOR/67-288] on June 2, 1967, and it provides:

1. The *Export Control List* is amended by adding thereto, immediately after item 5665 thereof, the following item:

"5666. Silver coin; silver, wrought or unwrought; silver alloys, wrought or unwrought; silver chemicals, salts and compounds; silver and silver alloy scrap. (*All destinations including the United States*)."

Appellant contends that "silver coin" is not "goods" or the equivalent "marchandises" used in the French text of s. 3 of the Act.

I agree with the reasoning of the Chief Justice based on the French text and consider that one must reach the same conclusion on the English. "Goods" in the plural, specifically, according to the Shorter Oxford English Dictionary, means "Merchandise, wares (now chiefly manufactured articles)". "Merchandise" in turn is defined as "the commodities of commerce; movables which may be bought and sold".

Silver must certainly come within these and the text of item 5666 leads to the conclusion that it is the silver content of the various things listed which is the common denominator. To attempt to control the export of silver without including silver coins would be ridiculous.

I have also had the advantage of reading the very well-reasoned judgment of Vanek, Judge of the Ontario Provincial Court in *R. v. Cross,* rendered on February 14, 1969, and which I hope will soon be reported [see *R. v. Vanek, Ex p. Cross*, 6 D.L.R. (3d) 591, [1970] 1 C.C.C. 111, [1969] 2 O.R. 724]. He had exactly the same problem and distinguishes, at some length, from the decision of Sankey, J., in *Attorney-General v. Brown,* [1920] 1 K.B. 773 cited to us by appellant in support of his *ejusdem generis* argument regarding the words "or other needs" in s. 3(*c*) of the Act.

I agree with Vanek, J., that we are dealing with quite a different text and I find his reasoning leading to the validity of item 5666 most compelling.

For these reasons and those more fully given by the Chief Justice, I would dismiss this appeal.