

the competence of this Court to question whether it was right in the circumstances so to deem. Although the Court was there concerned with the *War Measures Act*, the reference of Sir Lyman P. Duff, C.J.C., of the report of *Reference re Regulations (Chemicals) under War Measures Act*, [1943] S.C.R. 1 at p. 12, [1943] 1 D.L.R. 248 at p. 255, 79 C.C.C. 1 at pp. 9-10, cannot be overlooked. The passage to which I refer is as follows:

Subject only to the fundamental conditions explained above, (and the specific provisions enumerated), when Regulations have been passed by the Governor General in Council in professed fulfilment of his statutory duty, I cannot agree that it is competent to any court to canvass the considerations which have, or may have, led him to deem such Regulations necessary or advisable for the transcendent objects set forth.

Finally, while the evidence developed at the trial may very well show that what was attempted to be exported was not being treated as coin in other than a monetary sense, thus strengthening the argument that it could not be included within the meaning of the Order in Council and much scope for argument may be developed on other grounds, I cannot see that the arguments advanced at this stage go to the jurisdiction of the Provincial Judge.

On the face of it, an offence against an Order in Council which appears to have been within the competence of the Governor in Council has been charged. Provision is made in the relevant statute for prosecution in a summary way and under these provisions the learned Provincial Judge is purporting to proceed. Evidence may well show that no offence was in fact committed but on the face of it, there is nothing here going to jurisdiction and in my view prohibition would lie only if jurisdiction was in issue. See *R. v. Toronto Magistrates, Ex p. Bassett*, [1966] 2 O.R. 723, [1967] 1 C.C.C. 251.

For the above reasons, the motion will be dismissed. I do not consider it a proper case for costs and there will, accordingly, be none ordered.

Application dismissed.

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Patricia Reaney

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NEW YORK (Reuters) - A 1794 silver dollar, which many experts believe was the first such coin struck by the U.S. Mint, sold for a record \$10 million at auction on Thursday.