

IN THE MATTER OF THE NATURAL PRODUCTS  
MARKETING (BRITISH COLUMBIA) ACT

AND

IN THE MATTER OF AN APPEAL TO  
THE BRITISH COLUMBIA MARKETING  
BOARD FROM A DECISION OF THE  
BRITISH COLUMBIA CHICKEN  
MARKETING BOARD

BETWEEN:

A.M. Van der Wereld

Appellant

AND:

British Columbia Chicken  
Marketing Board

Respondent

A.M. Van der Wereld

Appearing on  
his own behalf

John J.L. Hunter

Appearing for  
the Respondent

Members of the Board hearing  
the Appeal

Chas.E. Emery -  
Chairman,  
E.Mona Brun, Martin  
Hunter, Nigel Taylor  
and Robert Reynolds  
Members

Donald A. Sutton

Counsel for  
the Board

This appeal was brought on pursuant to the provisions of  
the Natural Products Marketing (British Columbia) Act and was  
heard in Richmond, B.C. on Monday the 30th day of March, 1981.

The Appellant is appealing the decision of the Respondent  
not to allow him as a roaster grower who was growing under permit  
on September 1, 1978 to benefit under the provisions of Regulation

#LM-162-1981 entitled "Roaster Quota Allocation" and particularly sections (ii) and (iii) thereof.

The facts surrounding this appeal are as follows. The Respondent originally applied for a roaster permit in 1972, but it was not until some time early in 1978 that he was granted a roaster permit. He placed the first chick pursuant to the permit in November 1978. In the month of December 1979 this permit was then transferred to quota and he has been operating under that quota to the date of this appeal as a registered roaster grower. On February 5, 1981 the Respondent issued Regulation #LM-162-1981. By sections ii and iii of that regulation a new Roaster Quota and Secondary Roaster Quota was issued to a ". . . roaster grower who was registered on or before September 1st, 1978."

These sections read as follows:-

"Section (ii) Roaster Quota

(1) Each roaster grower who was registered on or before September 1, 1978 under this order is granted a 12,187 pounds roaster quota providing space at 5.40 lbs per square foot is available on the registered growers premises on or before June 15, 1981.

Section (iii) Secondary Roaster Quota

(1) Each roaster grower who was registered on or before September 1, 1978 under this order is granted a 11,427 pounds secondary roaster quota providing space at 5.40 lbs per square foot is available on the registered growers premises before June 15, 1981."

It is the Appellant's contention that he and others who were growing under permit at the effective date of the Regulation, ie. September 1, 1978, are being discriminated against in not

being granted secondary quota as were the registered growers, and also that the order should have become effective on the date it was issued and not have been made retroactive to a date some 29 months prior to its issuance. The Appellant strongly argued that such a thing had not been done before and created a very dangerous precedent.

The Respondent in argument stated that this is an appeal against a regulation which was properly enacted and which had come about as a result of a recommendation of the British Columbia Broiler Inquiry Committee which had been set up to attempt to solve and compensate for inequities which occurred in the industry in the past. The recommendation stated, with reference to roasters as follows:-

"ROASTERS

We have identified discrepancies in the allotment of quota, and consequent profitability, to Roaster Growers when compared to former Roaster Growers who were rolled over to Broilers in the past.

We strongly support the concept that the Roaster Industry must be maintained and were encouraged to hear Roaster Growers say they will be happy to continue raising roasters. We recommend that the B.C. Chicken Marketing Board, as soon as the market place permits, establish parity by issuing additional quota based on annual poundage to all roaster growers who were registered growers on or before September 1, 1978. Any Roaster Grower qualifying for additional quota but not having sufficient barn space should be given reasonable time to build to enable him to grow the increased poundage."

While admitting that it was the first time it had made a Regulation retroactive, the Respondent stated it had no alternative but to set September 1, 1978 as the effective date as that was the date upon which the last major quota regulation

had been passed and was also the date recommended by the Inquiry Committee which had done a great deal of research into all matters concerning the industry and which had the support of a large majority of producers in the industry.

This Board has examined into all aspects of the appeal and in particular the recommendations of the Inquiry Committee, and has come to the conclusion that, since the Appellant was not a registered grower on September 1, 1978, as called for in the regulation, he does not qualify for additional roaster quota. In coming to this decision this Board acknowledges the importance of consistency in adhering to dates of qualification related to quota issuance. The appeal therefore fails and it is hereby ordered that the deposit lodged by the Appellant shall be forfeited in its entirety to the Minister of Finance.

DATED at Richmond, B.C. this                      day of                      , 1981.

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CHAS. E. EMERY-CHAIRMAN  
BRITISH COLUMBIA MARKETING BOARD