

LABOUR RELATIONS BOARD OF } SASKATCHEWAN (PETITIONER).. }	APPELLANT;
AND	
JOHN EAST IRON WORKS } LIMITED }	RESPONDENT.

1949
 *June 6
 *June 24

MOTION FOR SPECIAL LEAVE TO APPEAL

Appeal—Jurisdiction—Where special leave to appeal refused by highest court of final resort in the province, "rights in future" must be economic rights; a judgment dealing with incidental matters involving condemnation in money does not give Supreme Court jurisdiction to grant leave to appeal—Supreme Court Act, R.S.C., 1927, c. 35, s. 41 (c) and (f).

The Labour Relations Board of Saskatchewan issued an order under *The Trade Union Act, 1944*, 2nd sess., c. 69, s. 5 (e) (Sask.), requiring the respondent to reinstate a discharged employee and to pay him the monetary loss suffered by reason of his discharge. Respondent applied to the Court of Appeal for Saskatchewan for a writ of *certiorari* to quash the order and that Court held (1), that s. 5 (e), which purported to empower the Board to issue the order was *ultra vires* since it purported to confer upon the Board judicial powers exercisable by the courts named in the *British North America Act*. In view of this finding the Court did not deal with other grounds raised in the application, namely, the alleged error in law on the part of the Board in fixing the monetary loss of the employee, and the alleged disqualification of the chairman of the Board on the ground of bias, in relation to the proceedings. On appeal to the Privy Council, (2), it was held that the Act was not *ultra vires* but the case was remitted to the Court of Appeal for a rehearing on the other grounds raised by respondent. On the rehearing the Court of Appeal held, (3), that the order of the Board should be quashed without the actual issue of the writ of *certiorari*. An application by the Board to appeal from this judgment to the Supreme Court of Canada was refused, (4), and the motion for special leave to appeal, now reported, was then made.

MOTION for special leave to appeal to the Supreme Court of Canada from a judgment of the Court of Appeal for Saskatchewan (4).

F. A. Brewin K.C. for the motion.

E. C. Leslie K.C. *contra.*

The judgment of the Court was delivered by:—

KERWIN J.:—This is a motion by the Labour Relations Board of Saskatchewan for leave to appeal to this Court

*PRESENT: Kerwin, Rand, Kellock, Estey and Locke JJ.

(1) [1948] 1 W.W.R. 81.	(3) [1949] 1 W.W.R. 842.
(2) [1948] 2 W.W.R. 1055.	(4) [1949] 2 W.W.R. 39.

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from a judgment of the Court of Appeal for Saskatchewan (1). Leave was refused by that Court, (2), and Mr. Brewin realized that he had to bring himself within clauses (c) or (f) of section 41 of *The Supreme Court Act*:—

- (c) the taking of any annual rent, customary or other fee, or, other matters by which rights in future of the parties may be affected; or
- (f) in cases which originated in a court of which the judges are appointed by the Governor General and in which the amount or value of the matter in controversy in the appeal will exceed the sum of one thousand dollars;

As to (c), the jurisprudence is well settled that the rights in future must be economic rights of the parties, and the mere fact, that, even in a case sought to be appealed to this Court, a judgment would deal with incidental matters involving a condemnation in money, would not give the Court jurisdiction to entertain the appeal: *Greenlees v. Attorney General for Canada*, (3).

The appellant thus having no economic interest cannot bring itself within (f).

There being no jurisdiction, the motion must be dismissed with costs.

Motion dismissed with costs.
