

CASES
DETERMINED BY THE
SUPREME COURT OF CANADA
ON APPEAL
FROM
DOMINION AND PROVINCIAL COURTS

THE QUEBEC RAILWAY LIGHT AND }
 POWER COMPANY (DEFENDANT)... } APPELLANT;

AND

THE CANADIAN PACIFIC RAILWAY }
 COMPANY (PLAINTIFF) } RESPONDENT.

1925
 *Nov. 6.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
 PROVINCE OF QUEBEC

*Appeal—Leave to appeal—Agreement between railways—Order from
 Board of Railway Commissioners—Interpretation—Future rights
 —Public interest.*

MOTION for special leave to appeal from the decision of the Court of King's Bench, appeal side, province of Quebec, affirming the judgment of the Superior Court and maintaining the respondent's action.

The appellant and the respondent companies operate railways in the city of Quebec, the former a tramway service and the latter a transcontinental railway. In June, 1920, the appellant made an application to the Board of Railway Commissioners of Canada for permission to cross the tracks of the respondent; and the Board granted it upon the following condition amongst others: "The Canadian Pacific Railway Company shall employ and pay the signalmen necessary to operate the interlocking plant, at the joint expense of" both companies. In December, 1920, an employee of the respondent met with an accident while operating the semaphore, and as a consequence of the accident, he sued the respondent company under the Workmen's Compensation Act. The respondent, without giving the appellant any notice, contested this action and was condemned to pay the sum of \$3,000 with interest

*PRESENT:—Anglin C.J.C. and Duff, Mignault, Newcombe and Rinfret JJ.

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RY. Co.

and costs. The appellant learned of that judgment only by receiving from the respondent a bill for \$1,704.24, being half the capital and interest due under the above judgment; but it refused to pay and the respondent prayed the Board of Railway Commissioners to grant an order forcing the appellant to pay that amount. The respondent's claim was dismissed by the Board on the ground that it was not one which could be attributable to or based upon the order which is alleged to be the foundation for such a claim. Subsequently the respondent brought suit against the appellant in the Superior Court for the sum of \$1,852.76. The action was maintained, and this judgment was affirmed by the Court of King's Bench. Both courts held that the words of the agreement above cited covered not only the actual wages of the workmen, or the obligation on the part of the appellant to pay one half of those wages, but also the obligation to pay one half of what might be called an accessory expense of the employment.

The appellant alleged that these judgments did not proceed upon an interpretation which the wording of the order would justify, but had the effect of rendering it liable for expenses which had not been foreseen when the order was issued; that the future rights of the parties were affected; that the decisions involve an interpretation of a public statute, the Railway Act of Canada, and that, as orders of the Board are made only when a matter of public interest is involved, their interpretation constitutes a question of public interest.

The Supreme Court of Canada, after hearing counsel and reserving judgment, granted the motion. Costs in the cause.

Motion granted.

St. Laurent K.C. for motion.

Thomson contra.
