58, 1949

In the Privy Council.

No. 13 of 1949.

ON APPEAL FROM THE SUPREME COURT OF CANADA

BETWEEN

CANADIAN PACIFIC RAILWAY COMPANY ... APPELLANT

AND

THE ATTORNEY-GENERAL OF BRITISH COLUMBIA RESPONDENT

AND

THE ATTORNEY-GENERAL OF CANADA and the ATTORNEYS-GENERAL OF ONTARIO, NOVA SCOTIA, ALBERTA and SASKATCHEWAN ... INTERVENANTS.

CASE FOR THE INTERVENANT

THE ATTORNEY-GENERAL OF ALBERTA.

CASE OF A.-G. ALBERTA

1.—The Attorney-General of Alberta, adopts and relies upon the Case of the Attorney-General of British Columbia and submits that the Appeal should be dismissed for the reasons therein mentioned.

2.—The Attorney-General of Alberta respectfully submits that the Supreme Court of Canada by its unanimous Judgment correctly answered the question referred to the Court and that this Appeal should be dismissed for the following amongst other

REASONS

(1) BECAUSE the Hours of Work Act is legislation in relation to
10 " Property and civil rights in the province " under sub-head 13 of Section 92 of the British North America Act and is applicable to and binding upon the employees of the Canadian

Pacific Railway Company employed in the Empress Hotel, in the City of Victoria, in the Province of British Columbia.

(2) BECAUSE the fixing of the hours of work of the employees of the Empress Hotel is not a subject within the legislative competence of the Parliament of Canada under its legislative authority to legislate with respect to railways under sub-head 29 of Section 91 of the British North America Act.

(3) BECAUSE it is submitted that an hotel cannot be said to be an integral part of a railway or the operation of a railway.

(4) BECAUSE the regulations of the hours of work or the terms of service of hotel employees are not necessarily incidental to railway legislation and the Parliament of Canada cannot override provincial legislation on this subject.

(5) BECAUSE the Empress Hotel operated by the Canadian Pacific Railway Company has not been declared to be a work for the general advantage of Canada under the provisions of Clause (c) of sub-head 10 of Section 92 of the British North America Act.

(6) BECAUSE the provisions of Section 6 (c) of the Railway Act, being Chapter 170 of the Revised Statutes of Canada, 1927, is not an effective declaration under the provisions of Clause (c) of sub-head 10 of Section 92 of the British North America Act, and insofar as it purports to be a declaration is *ultra vires*.

(7) BECAUSE Section 27A of the amendment to The Canadian National-Canadian Pacific Act, 1933, being Chapter 33 of the Statutes of Canada, 1932–33, as enacted by Chapter 28 of the Statutes of Canada, 1947, is inapplicable to the employees of the Empress Hotel and is *ultra vires* the Parliament of Canada insofar as it purports to apply to such employees.

(8) BECAUSE the opinions expressed by the Judges in the Supreme Court of Canada are right for the reasons assigned.

H. J. WILSON.

In the Privy Council.

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CASE FOR THE INTERVENANT

THE ATTORNEY-GENERAL OF ALBERTA

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