

N.W.T.]

[Dec. 13, 1907.]

CANADIAN PACIFIC RY. v. THE KING, EX REL. KEAYS.

*Railways—Constitutional law—Legislative jurisdiction—Application of statute—"The Prairie Fire Ordinance"—Works controlled by Parliament—Operation of Dominion railway.*

In so far as they may relate to matters affecting the operation of a railway under the control of the Parliament of Canada, the provisions of c. 87, Con. Ord. N.W.T. (1898), s. 2, sub-s. (a) and (2) as amended by the N. W. T. Ordinances, c. 25 (1st sess.) and c. 30 (2nd sess.) of 1903, constitute "railway legislation" strictly so-called, and are beyond the competence of the legislature of the North-West Territories. *Canadian Pacific Ry. Co. v. Notre Dame de Bonsecours* (1899) A.C. 367 and *Madden v. Nelson and Fort Sheppard Ry. Co.* (1899) A.C. 626 referred to.

The judgments appealed from were reversed, Idington, J., dissenting. Appeal allowed with costs.

*Nesbitt*, K.C. for appellants. *Ford*, K.C., for respondents.

Ex. Ct.]

[Dec. 13, 1907.]

HILDRETH v. MCCORMICK MANUFACTURING CO.

*Patent of invention—Canadian Patent Act (R.S.C. 1906, c. 69, s. 38—Manufacture—Sale—Lease or license.*

*Held*, affirming the judgment of the Exchequer Court (10 Ex. C.R. 378) that under the Canadian Patent Act a patent is void unless the patentee commences manufacture of the invention within two years from the date of the patent and carries it on continuously afterwards so that any person desiring to use it may obtain the absolute ownership. The patentee cannot refuse to sell it outright and insist on his right merely to lease it or license its use. Appeal dismissed with costs.

*Walter Cassels*, K.C., and *Anglin*, for appellant. *Gibbons*, K.C., and *Haverson*, K.C., for respondents.

Ex. Ct.]

[Dec. 13, 1907.]

DOMINION FENCE CO. v. CLINTON WIRE CLOTH CO.

*Patent of invention—Novelty—Combination of known elements—Infringement—Mechanical equivalents.*

A device resulting in the first useful and successful applica-