

should be left for decision in concrete cases, as and when they might arise.

The next attempt to resolve the broad question was by the Dominion upon a special case referred by the Governor-General in Council to the Supreme Court of Canada in February, 1905. In the matter of the jurisdiction of a province to legislate respecting abstention from labour on Sunday: *Re Sunday Laws*, 35 S. C. R. 589. This case set forth a draft Act embodying legislation contemplated by the province of Ontario in 1904, and in particular asked for direction as to its competence to prohibit the operation of railways on the Lord's Day in the case of undertakings incorporated by the province, and those incorporated by the Dominion, and also as to those incorporated by the Dominion, which were declared to be for the general advantage of Canada, but authorized to operate within one province only (to wit, Ontario), and whose operations were confined to such province. The majority of the Judges (as it were, under protest and without prejudice), indicated their opinion to be that all such interferences making for the compulsory observance of the Lord's Day were beyond the proper competence of the province, and fell within the views expressed by the Privy Council in 1903, as being of criminal character, and so, within the ambit of the Dominion Parliament.

Pending the launching and the decision of this special case, the Dominion had been legislating, and we find the Canada Railway Act being amended by the statute of 4 Edw. VII., ch. 32 (passed on the 10th August, 1904), in which first appear the important clauses upon the force and effect of which the present litigation is mainly to be determined. One provision relates to every railway (electric and other), wholly situate within one province of Canada, but in its entirety or in part declared to be a work for the general advantage of Canada, and enacts that it shall, notwithstanding such declaration, be subject to any Act of the Legislature of the province in which it is situated, prohibiting or regulating work, etc., upon the first day of the week—which is in force at the time of passing the Act (sec. 6a). And by sec. 3, it is enacted that the Governor in Council may at any time, and from time to time, by proclamation confirm for the purposes of this section, and Act of the Legislature of the province passed after the passing of this Act (i.e., 10th August, 1904), for the prohibition or regulation of work, business, or labour upon the first day of the week. And