

See Purchasing Agents' Guide  
on third page of cover. ❖ ❖ ❖

# THE Railway and Shipping World

With which is incorporated The Western World. Established 1890.  
Devoted to Steam & Electric Railway, Shipping, Express, Telegraph & Telephone Interests.

OLD SERIES, NO. 121.  
NEW SERIES, NO. 39.

TORONTO, CANADA, MAY, 1901.

10 CENTS A COPY.  
\$1 A YEAR.

## Qu'Appelle, Long Lake & Saskatchewan Railroad and Steamboat Co.

The case of this Co. vs. the King is a petition of right in the Exchequer Court of Canada which has attracted considerable attention and interest. The subject matter of the petition is a land grant which was promised by the Dominion Government to the Co. in aid of the construction of its railway. The petitioners are the Co. and certain persons to whom the rights of the Co. to the land grant were assigned as security for assistance obtained from them by the Company for the purpose of its undertaking. The defendant or respondent is the Crown, or rather the Dominion Government.

The facts of the case are that about 1887 the Dominion Government was anxious to have a railway connecting Regina on the C.P.R., with the Saskatchewan district and the northern districts of the Northwest, and the orders-in-council dealing with this land grant recite that the building of such a railway was considered to be a matter of very great importance in the interests of the public and of the Government, both as affecting the maintenance of good order (the Northwest rebellion was then a matter of recent history and the absence of railway communication had been seriously felt), the development of the rising centres in that district and as effecting an important reduction to the Government on the cost of transport of men, supplies and mails.

A small portion of this railway, the first 20 miles from Regina to Long Lake, was then under construction and a land grant of 6,400 acres a mile had been granted by the Dominion Parliament, which was subsequently given.

In 1887 an Act was passed authorizing a similar land grant for the continuation of the railway to Prince Albert a further distance of about 230 miles. The Act provided that the grant was to be made in aid of the construction of the railway in the proportions and upon the conditions passed by the orders-in-council made in respect thereof. A few days previously to the Statute, an order-in-council, which was thus confirmed by the Statute, had been passed, dealing with this land grant. This order-in-council provided that the grant should consist of lands fairly fit for settlement to be made out of the unoccupied and unclaimed odd numbered sections at the disposal of the Government or out of alternate townships or blocks of land within 10 miles of the railway on either side thereof, in so far as practicable, without interfering with any previous grants or reservations, any deficiency in the area to be made up out of any available lands in the Northwest Territories in the discretion of the Governor-General in Council.

A contract was also entered into between

the Dominion Government and the Co. providing for the carriage of Government supplies, materials and mails, etc., for 20 years, and the Co. was to be paid \$80,000 a year for such services and any portion of this amount not earned by the Co. was to be secured by the retention by the Government of one-third of the land grant.

The railway was constructed to the satisfaction of the Government and after inspection by the Government Engineer was formally taken over by order-in-council, the official date of the taking over of the railway being Oct. 12, 1890, and it was recognized that the

proceedings are brought to obtain from the Government the balance of the land grant, 739,542 acres. Correspondence and negotiations were carried on with succeeding Governments, both Conservative and Liberal, for the past 10 years, but without success. Until the present proceedings were brought, the Government never denied the existence of a legal contract which, as above stated, was contained in an order-in-council authorized by an act of parliament and confirmed by subsequent orders-in-council, acts of parliament, agreements, etc., but the difficulty was the apparent inability of the Government to find the necessary lands to satisfy the balance of the land grant to which it was then admitted that the Co. was entitled.

All lands offered by the Government to the Co. were examined by the Co. with great care and at its expense, and it appears that all lands at all approaching the definition of the contract were accepted, but the above deficiency still remains. It appears that so many land grants have been made by the Government to different railway companies both before and after the land grant to this railway, that the Government finds a difficulty in satisfying them.

The Government was fully aware at the time this land grant was granted, that the same was to be used by the Co. in obtaining the funds necessary to construct the railway, and the land grant was used for such purposes and the money was advanced by different financiers both in England and in Canada, relying on the contract made by the Government and on the good faith of the latter. When the case came into Court the Government took the technical but surprising position that no legal contract at all existed which could be enforced against the Crown. It also took the position that if there were not sufficient lands to be found to satisfy the contract (if the contract existed) then the petitioners were not entitled to damages, but were without any remedy even though money had been advanced, as stated, relying on the good faith and credit of the Government.

When the case came on for hearing it was agreed by both sides that no evidence should be given as to the number of acres for which the Crown was in default, etc., but that Mr. Justice Burbidge should be asked to first decide certain preliminary questions of law. S. H. Blake, K.C., appeared with E. L. Newcombe, K.C., the Deputy Minister of Justice, for the Crown, and C. Robinson, K.C., A. R. Creelman, K.C., and C. S. MacInnes appeared for the petitioners.

The judgment of Mr. Justice Burbidge which has recently been handed down, decides that the petitioners have a valid contract on the terms claimed by them and that



R. S. LOGAN,  
Vice-President and General Manager, Central Vermont Ry.

Co. had complied with all the specifications and conditions imposed on it by the order-in-council of June, 1887, and amending orders-in-council, and an order-in-council was passed stating that the Co. had become entitled to its land grant, and that the Privy Council recommended that it should be granted to the Co. accordingly.

The total land grant to which the Co. became entitled, was about 1,500,000 acres, of which the Government was to retain one-third as security. Of the remaining 1,000,000 acres the Government gave to the Co., and the Co. has accepted, about 250,000, and the present