

bind the purchaser of the shortline (Central Western) to the unions' collective agreements with CN. The application was granted. Central Western appealed to the Federal Court of Appeal pursuant to s. 28 of the *Federal Court Act* (R.S.C. 1985, c. F-7, as amended). That appeal was dismissed and Central Western subsequently appealed to the Supreme Court of Canada.

The question before the Supreme Court was whether the provincial or the federal government had jurisdiction, for purposes of labour relations, over the shortline railway situated wholly within the Province of Alberta and owned by a provincially incorporated railway company, i.e., Central Western. The Supreme Court held that there were two ways in which the Central Western shortline could be found to fall within federal jurisdiction over labour relations, and therefore be subject to the *Canada Labour Code*. First, it might be seen as an interprovincial railway and therefore come under s. 92(10)(a) of the *Constitution Act, 1867* as a federal work or undertaking. Second, if the shortline could be viewed as integral to an existing federal work or undertaking, it would be subject to federal jurisdiction under s. 92(10)(a). The Court noted that the two approaches, though not unrelated, are distinct from one another. For the former, the emphasis must be on determining whether the railway itself constitutes an interprovincial work or undertaking. Under the latter, federal jurisdiction is dependent upon a finding that regulation of the rail line is integral to a core federal work or undertaking.

Section 92(10)(a) of the *Constitution Act, 1867* states:

92. In each Province the legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,-

.....

10. Local Works and Undertakings other than such as are of the following Classes: -

(a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province;

Part I of the *Canada Labour Code*, pertaining to industrial relations, specifically applies to federal works, undertakings and businesses, including, among others, those described in s. 92(10)(a) of the *Constitution Act, 1867*.

Whether the *Canada Labour Code* is applicable to a shortline on the basis of s. 92(10)(a) is a question of fact to be determined in the circumstances of a particular case, in accordance with the test set out by the Supreme Court of Canada in the *Central Western* case. Both the physical and operational character of the shortline railway must be examined. In *Central Western*, the Court found that the shortline was neither an interprovincial work or undertaking under s. 92(10)(a) nor an integral part of an existing federal work or undertaking so as to bring it within