

1919

November 27.

IN THE EXCHEQUER COURT OF CANADA.

IN THE MATTER OF

THE GRAND TRUNK PACIFIC RAILWAY CO.

AND

THE HONOURABLE JOHN DOWSLEY REID,  
OF THE CITY OF OTTAWA, IN THE PROVINCE OF ON-  
TARIO, RECEIVER, DULY APPOINTED TO SAID RAIL-  
WAY COMPANY.

AND

THE UNITED STATES STEEL PRODUCTS  
COMPANY,

PETITIONERS.

*War Measures Act—Exchequer Court Act, section 26—Jurisdiction—  
Receiver—Permission to sue.*

*Held*, that the Receiver herein having been appointed by an Order-in-Council, under the authority of the *War Measures Act*, 1914, confirmed by 9-10 Geo. V. ch. 22, and not under the provisions of the *Exchequer Court Act* sections 26 and following, is not an officer of the Court, and, therefore, the Court has no jurisdiction to entertain an application by a creditor for permission to sue such Receiver and Company.

THIS is an application for the permission to sue the Receiver appointed to the Grand Trunk Pacific Railway Co. by an Order-in-Council under the *War Measures Act*.

The application was made, in Chambers, before Mr. Justice Audette, on the 26th day November, 1919.

*Mr. M. G. Powell* for petitioners.

The facts are set forth in the reasons for judgment of the Honourable Mr. Justice Audette, which follow:

AUDETTE, J., in Chambers (November 27th, 1919) delivered judgment.

This is an application on behalf of the United States Steel Products Company praying that it may be authorized, permitted and empowered to institute and carry on before the proper tribunal an action against the Grand Trunk Pacific Railway Company and the Honourable John Dowsley Reid in his quality of Receiver thereto, or either or both of them, as may be necessary, to recover the sum of \$9,297.00 with interest and costs.

Notice of this petition or application was duly served upon the solicitor of the Grand Trunk Pacific Railway and the Receiver, but no one appeared on their behalf on the hearing of the same.

The appointment of the Receiver in this case was not one made by the Court under the provisions of sections 26 and following of the *Exchequer Court Act* whereby the Receiver becomes an officer of the Court.

The Receiver was appointed by an Order-in-Council under the authority of the *War Measures Act*, 1914, confirmed by 9 & 10 Geo. V., ch. 22.

I fail to see that, under the circumstances, I have any jurisdiction to entertain the application and my order will be: That the Petitioner take nothing by his application.

*Judgment accordingly.*

Solicitors for petitioner: *Davidson, Wainwright Alexander & Elder.*

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GRAND TRUNK  
PACIFIC RAIL-  
WAY CO.v.  
UNITED STATES  
STEEL  
PRODUCTS CO.Reasons for  
Judgment.