Toronto Railway Overcrowding Case Decided.

The Judicial Committee of the Imperial Privy Council has allowed the Toronto Ry.'s appeal against a conviction at Toronto assizes, Nov. 2, 1914, for criminal negligence in overcrowding cars and for not taking reasonable steps to avoid such nuisance. The action was originally taken against the company at the city's instance under the Public Health Act. This matter has been before various courts in Canada for at least 6 years, a conviction having been obtained for a similar offence in 1911. At intervals some feeble attempts have been made to remedy the overcrowding, which is admitted by the company, but in no case has the proper remedy been applied, or even attempted, and as, without doubt, the city has the remedy in its own hands, it may be given as an unprejudiced opinion that the city does not intend that the trouble should be obviated, but rather that it should be aggravated chiefly for the purpose of influencing public feeling during the expiring years of the company's franchise. Apart from this is the feeling among a certain class of people, and especially so when the final decision does not favor their views, that cases should not be taken to the Imperial Privy Council for decision, it being contended that it is impossible for the Judicial Committee to judge correctly, not being in touch with local opinion. There is no doubt that there is sufficient legal ability in Canada to enable all appeal cases to be decided on this side, but the main safeguard in appeals to the Privy Council is, in reality, the fact that cases are taken there for decision on legal points alone, where local opinion should have no effect whatever, and of which, of course, the Judicial Committee is entirely ignorant. The history of this case alone is sufficient to prove that local opinion and feeling on the matter of overcrowding had its effect in each court in which the case was brought. The contention for the defence, that the courts had no jurisdiction to deal with the matter under the Public Health Act, but that it was entirely within the province of the Ontario Railway and Municipal Board, being ignored. It was mentioned in one of the appeal hearings in the First Divisional Court, Torontot, Oct. 13, when it was held that the courts had jurisdiction, and that the contention of the company might hold good as between the company and private persons, but not between the Crown and the company. The decision seems absurd, when the complainant is the City of Toronto, which does not represent the Crown, and even though prosecution is under indictment by a grand jury, it is not, of necessity, a Crown prosecution. On the other hand, the Ontario Railway and Municipal Board, by virtue of its authority from the Ontario Government, does represent the Crown, and its powers to deal with the case have time and again been pointed out on the company's behalf.

Under clause 38 of the agreement between the city and the company, the City Engineer is required to decide as to the carrying capacity of the various cars operated by the company, and on May 4, 1895, the then City Engineer recommended to the City Council, who adopted the same, that the carrying capacity of closed cars be limited to 50% above their seating capacity, allowing a space of 18 in. on the seat for each person; that open cars be limited to their seating capacity, and that notices should be placed in the cars giving the number of passengers each was entitled to carry. No attempt seems to have been made to enforce the city's bylaw, but early in 1915 the company drafted a bylaw on precisely similar lines, and submitted it to the Ontario Railway and Municipal Board for approval. This was approved by the Board, on the understanding that it be redrafted, and that the company adopt a device to show when the cars were full, the bylaw not to be operative until a date to be fixed. The Vice Chairman of the Board, A. B. Ingram, dissented, and stated that in his opinion it was utterly impossible to carry out the bylaw, unless the company made alterations to its rolling stock. Immediately following the company's submission of its bylaw, the city council repealed its own bylaw worded similarly, and decided to oppose the application.

Other steps taken with the view of eliminating overcrowding, included some new designs of cars. Various types were tried, but as none of the types carried more passengers than those now in use, nothing was gained. Additional cars were suggested and ordered, but as additional trackage is blocked by the city, there is naturally a limit to the number of cars which can be added. There are at least three things which have interfered to a great extent in carrying out a proper method of dealing with the trouble: the war, the destruction of a number of cars by fire at the company's barns, and the fact that the franchise expires in March, 1921 and that the city has declared its intention of taking over the system.

The jurisdiction of the Ontario Railway and Municipal Board to deal with the complaints, is now unquestioned, but to remedy the evil it would require considerable expenditure, not only by the company, but also by the city, and the Board's Chairman stated recently that under existing circumstances it would be distinctly unfair to compel the company to expend large sums on new equipment, etc., There are several ways in which overcrowding evils may be lessened, if not removed, but as there appears up to the present, no disposition on the part of the city to have the matter handled properly, or to co-operate with the company, it is probable that the evil will continue.

The Privy Council's judgment is not to hand at the time of writing, but dispatches state that the company's appeal was allowed and the conviction quashed.

Suit against Sandwich, Windsor & Amherstburg Ry.—The Ontario Court of Appeals gave judgment at Toronto, July 4, in the action of the Windsor City Council against the S. W. & A. Ry. in reference to the Ferry Ave. loop. The city sued for damages for trespass on Ferry Ave. and injury thereto from excavations, for costs of filling such excavations, injunction and declaration that defendants have no rights upon said streets, without bylaw assented to by electors authorizing same. At the trial, April 27, 1916, judgment was given plaintiffs for $900 damages and costs, with declaration and injunction as asked. The Court of Appeals has upheld the judgment in all respects, except as to the $900 damages. Each party pays its own costs of the appeal.

Sudbury-Copper Cliff Suburban Electric Ry.—We are officially advised that the company has under construction at Sudbury, Ont., a car barn 50 x 115 ft., and a station building 20 x 30 ft.

Electric Railway Projects, Construction, Betterments, Etc.

British Columbia Electric Ry.—We are officially advised that in May last the Victoria City Council, on the company's application, authorized the laying down of 420 lin. ft. of second track, paralleling the existing single track on Esquimalt Road, between Catherine and Mary Sts. The linking up of this short stretch will make a complete run of double track from the city to Constance Ave., a little over three miles. The company's right of way over this portion of Esquimalt Road had long been in dispute, and was finally settled by an order of court. (July, pg. 286.)

International Transit Co.—We are officially advised that the company proposes to relay 1,720 ft. of track in Sault Ste. Marie, Ont., in advance of city permanent improvements.

Lake Erie & Northern Ry.—We are officially advised that the overhead construction necessary to operate the company's cars into the Grand Trunk Ry. station at Port Dover, Ont., has been completed, and that since July 9, the cars run over about half a mile of the G.T.R. tracks. This enables the company to have a connection with the wharf at Port Dover. Negotiations to secure this connection were started in March, and plans had been prepared, in the event of their not being successful, for the company to build its own line on St. Patrick St.

Ottawa Electric Ry.—We are officially advised that the company is about to relay track on Sussex St., from Rideau St. to St. Patrick St., Ottawa, 1,600 ft., with 80 lb. T rail. The city will renew the paving at the same time. Work is expected to be started at once.

Port Arthur Civic Ry.—Plans are reported as being prepared by the City Engineer, for the erection of two new bridges over the McIntyre River, Port Arthur, Ont., one for each track. They will, it is said, be of timber construction, as there is a remote possibility that the track may be diverted to May St. The existing bridges are not considered adequate and cars are operated over them at the rate of two miles an hour. It is not expected that any construction will be done on the bridges before September. (May, pg. 203.)

Sherbrooke Power & Ry. Co.—The City Council is applying to the Quebec Public Utilities Commission to consider and settle various matters which are in dispute between the council and the company. The city contends that the company is not living up to the terms of its franchise in regard to street paving and other matters. (May, 1916, pg. 194.)

Toronto Civic Ry.—Tenders were received July 19 for building a single track extension to the Bloor Division, from Quebec Ave. to Runnymede Road. The contractor is to provide all track and overhead work, ballasting, grading, alterations and additions to existing track, and to supply two single truck cars. Only one tender was received for the track, including secondhand T rails and second quality ties, for $7,655; or as an alternative, for $2,500, if the city supplies rails, bolts, spikes and the plates. The work is to be completed in 20 days from the start.

Montreal Tramway Co.'s Wages.—The M. T. Co.'s management voluntarily increased its conductors' and motormen's wages 2c an hour all round, from July 1.