

The  
**Ontario Weekly Notes**

Vol. III.

TORONTO, NOVEMBER 15, 1911.

No. 9.

COURT OF APPEAL.

NOVEMBER 4TH, 1911.

\*RE CITY OF WEST TORONTO AND TORONTO R.W. CO.

*Street Railways—Agreement with Municipality—Construction—Repair and Renewal of Tracks—“Construct”—Dangerous Condition of Tracks—Ontario Railway Act, 1906, sec. 164—Ontario Railway and Municipal Board Amendment Act, 1910—Application to Proceedings Pending when Passed—Order of Board—Jurisdiction.*

Appeal by the Toronto Railway Company from an order of the Ontario Railway and Municipal Board of the 8th August, 1910, requiring the appellants forthwith to repair, renew, and restore to a suitable and satisfactory condition the tracks and substructure in use upon that portion of Dundas street between the easterly limit of the former city of West Toronto and the westerly limit of Keele street north of Dundas street, and on Dundas street west of Keele street, over which the appellants were operating their cars.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MAGEE, J.J.A., and MIDDLETON, J.

J. W. Bain, K.C., and M. Lockhart Gordon, for the appellants.

H. L. Drayton, K.C., for the respondents.

The judgment of the Court was delivered by GARROW, J.A. :—  
The only question involved is as to the jurisdiction or power of the Board to make the order complained of. We have, of course, nothing to do with the merits. . . .

[Reference to the Ontario Railway and Municipal Board Act, 1906, secs. 63(1), 64; to the agreement between the Corporation of the Town of Toronto Junction and the Toronto Suburban

\*To be reported in the Ontario Law Reports.