

THE
ONTARIO WEEKLY REPORTER

VOL. 22

TORONTO, JUNE 20, 1912.

No. 4

BOARD OF RAILWAY COMMISSIONERS.

DECEMBER 20TH, 1911.

ST. THOMAS v. GRAND TRUNK R. CO.

13 Can. Ry. Cas. 134.

Highway—Opening across Railway—Jurisdiction of Board of Railway Commissioners—Public Interest—Protection—Railway Act, ss. 2 (21), 237.

DOM. R. W. Bd. refused the application of St. Thomas for leave to extend Inkerman street across lands of Grand Trunk R. Co., holding that the crossing would be a very dangerous one and would require protection almost at once.

An application heard at St. Thomas, December 13th, 1911, the facts of which are fully set out in the following judgment.

W. B. Doherty, for the applicant.

W. H. Biggar, K.C., for the respondent.

HON. MR. MABEE, CH. COMR.:—The city is asking for leave to carry Inkerman street across the lands of the Grand Trunk Railway Company. The facts are a little out of the ordinary. Inkerman street is not opened up to the right-of-way of the company on the south side; a block of land owned by the railway company, purchased, it is said, for the purpose of building a round house, lies between the northern terminus of Inkerman street, on that side, and the right-of-way. Under sec. 237, the Board is authorized to give leave to construct a highway across "any railway." The word "railway" is defined by sec. 2, sub-sec. 21, as including "sidings, stations, depots, wharfs . . . property, real or personal, and works connected therewith." There is, therefore, power to authorize the construction of a highway through any land