

The Ontario Weekly Notes

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TORONTO, OCTOBER 26, 1910.

No. 5.

COURT OF APPEAL.

OCTOBER 13TH, 1910.

RE TOWN OF SANDWICH AND SANDWICH WINDSOR
AND AMHERSTBURG R. W. Co.

Street Railways — Construction of Incorporation Act and other Statutes—General Railway Act—Street Railway Act, 1883—By-law of Town—Right to Occupy Streets—License “Railway” or “Street Railway”—Franchise—Unconditional Right of Occupation—Ontario Railway and Municipal Board.

Appeal by the railway company from an order of the Ontario Railway and Municipal Board, made upon an application by the town corporation, complaining that proper service was not being furnished by the defendants, and asking that the agreement between the parties might be construed.

The Board considered it convenient to make what might be called an interim order construing the agreements, and retaining the rest of the application until the opinion of the Court of Appeal could be obtained upon the question of construction.

The appeal was heard on the 24th and 25th January, 1910, by MOSS, C.J.O., OSLER, GARROW, and MACLAREN, J.J.A.

A. H. Clarke, K.C., for the appellants.

F. E. Hodgins, K.C., and F. L. Bastedo, for the town corporation.

GARROW, J.A.:—The Sandwich and Windsor Passenger Railway Co. was incorporated by (1872) 35 Vict. ch. 64 (O.), and was thereby (sec. 4) authorised to construct a railway from any part of the town of Sandwich to any part of the town of Windsor and to