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## REPORTS AND NOTES OF CASES.

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### Dominion of Canada.

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#### SUPREME COURT.

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Dom. Ry. Board.]

[June 19.

HAMILTON v. TORONTO, H. &amp; B. RY. CO.

*Railway Board—Jurisdiction—Constructed line of railway—Deviation—Application by municipality—Special Act—Case stated—Questions of Jurisdiction—Railway Act (R.S.C. 1906, c. 37, ss. 2 (28), 3, 26, 28, 167.*

Under s. 55 of the Railway Act, the Board of Railway Commissioners may state a case in writing for the opinion of the Supreme Court of Canada on a question of jurisdiction. The Board has no power to order, against the will of the company, deviation of a constructed line of railway the location of which has been definitely established by an Act of the Legislature. ANGLIN, J., *contra*.

*Per* FITZPATRICK, C.J., and IDINGTON, J.: In this case the Dominion Act, 58 & 59 V. c. 66, was a "special Act" within the meaning of s. 2, sub.-s. 28 and s. 3 of the Railway Act.

Cowan, K.C., and Waddell, K.C., for applicant. Hellmuth, K.C., and Soule, for respondent.

Ont.]

CARTWRIGHT v. CITY OF TORONTO.

[June 19.

*Assessment and taxes—Sale of land for arrears—Purchase by municipality—Failure to give notice—Curative Act—Evidence—Discovery—Death of deponent—Use of deposition at trial.*

By s. 184 (3) of the Ontario Assessment Act (R.S.O. [1897], c. 224), where the sale of lands for unpaid taxes is adjourned for want of a bid for the full amount of the arrears, the municipality may purchase the land at such adjourned sale if its council, before the day thereof, has given notice of its intention to do so.

*Held*, affirming the judgment of the Appellate Division (29 Ont. L.R. 73), that failure to give such notice is cured by the provisions of 3 Edw. VII. c. 86, s. 8, and its amendment, 6 Edw. VII. ch. 99, s. 8. *Russell v. City of Toronto* ([1908], A.C. 493), followed.