

The undersigned appointed by the municipal council and the company as hereinafter set forth, hereby submit to this Court a stated case for the opinion of the Court, the questions of law hereinafter referred to arising out of the said notice and proceedings subsequent thereto.

1. The notice marked exhibit A was served upon the president and general manager of the said company on behalf of the said municipal corporation on 18th January, 1906.

2. On 14th May, 1906, the Lieutenant-Governor gave the royal assent to two certain Acts enacted by the Legislative Assembly of the province of Ontario, known respectively as chs. 30 and 31 of 6 Edw. VII. (O.), and which are cited as "The Ontario Railway Act, 1906," and "The Ontario Railway and Municipal Board Act, 1906," respectively.

3. By sec. 259 of ch. 30 of 6 Edw. VII., ch. 208 of R. S. O. 1897, referred to in the notice, was repealed.

4. On 21st June, 1906, an agreement now produced and marked exhibit B was executed by the mayor and clerk of the municipal corporation, and by the president and secretary of the railway company, without either party being aware that ch. 208 of R. S. O. 1897 had been repealed.

5. Three meetings of the undersigned have been held at the town of Berlin on the following dates, viz., 7th July, 8th August, and 16th August, 1906.

6. It was not drawn to the attention of the undersigned till the meeting held on 16th August that R. S. O. 1897 ch. 208 had been repealed as aforesaid, and the undersigned at the meeting of 7th July, directed that a statement of the claims in respect of which the railway company seek compensation be delivered to the solicitors for the municipal corporation on or before 20th July, and also that the municipal corporation should be entitled to enter upon the real property of the railway company and to inspect the same, and to make a survey of the undertaking of the railway company, and at the meeting of the undersigned on 8th August certain discussions took place and certain directions were given by the undersigned as particularly set forth in the stenographer's notes taken at that meeting, now produced and marked exhibit C hereto.

7. At the meeting of the undersigned held on 16th August it was brought to our attention by counsel for the railway company that ch. 208 of R. S. O. 1897 had been repealed by the statute 6 Edw. VII. ch. 30, and the question