

meter-room at the defendants' gas works. It was shewn that there might possibly have been an escape of gas from the controllers or other fixtures in the room or in the blow-room adjoining it; that there had been no special precautions by the defendants to detect any such escape of gas that might occasionally happen, and that the meter-room had always been, and at the time of the accident, was lighted by means of open gas jets. There was no exact proof of any particular fault attributable to the defendants, which could have been the whole cause of the explosion, and its origin and course were not explained. In an action for damages by the widow and representatives of deceased, the jury found that the explosion had resulted from the fault and imprudence of the defendants in lighting the meter-room by open gas jets, and contributory negligence on the part of deceased was negatived.

Held, affirming the judgment appealed from (Q.R. 16 K.B. 246), Davies and MacLennan, JJ., dissenting, that in the circumstances the jury were justified in finding that there had been such negligence and imprudence on the part of the defendants in such use of open gas jets as would render them responsible for the injury complained of.

Appeal dismissed with costs.

R. C. Smith, K.C. and G. H. Montgomery, for appellants.
Oughtred, K.C., and W. H. Butler, for respondent.

Board of Rly. Commrs.]

[Oct. 6.

ESSEX TERMINAL CO. v. WINDSOR, ESSEX & LAKE SHORE RAPID
RLY. CO.

*Board of Railway Commissioners—Jurisdiction—Location of
railway—Consent of municipality—Crossing—Leave of
Board—Discretion.*

On 12th August, 1905, the Township of Sandwich West passed a by-law authorising the W. E. etc., Rly. Co. to construct its line along a named highway in the municipality, but the powers and privileges conferred were not to take effect unless a formal acceptance thereof should be filed within thirty days from the passing of the by-law. Such acceptance was filed on 12th September, 1905. This was too late and on 20th July, 1907, the Council of Sandwich West and that of Sandwich East respectively passed by-laws containing the necessary authority.