

1911
 *March 27. — THE CANADIAN PACIFIC RAIL-
 WAY COMPANY AND THE CANA-
 DIAN NORTHERN RAILWAY } APPELLANTS;
 COMPANY

AND

THE REGINA BOARD OF TRADE...RESPONDENT.

(REGINA RATES CASE.)

ON APPEAL FROM THE BOARD OF RAILWAY COMMISS-
 SIONERS FOR CANADA.

*Appeal—Setting down for hearing—Form of submission—Defining
 questions of law.*

The Supreme Court of Canada will not entertain an appeal under section 56(3) of "The Railway Act," R.S.C. (1906), ch. 37, unless some specific question is stated, or otherwise defined, in the order granting leave to appeal made by the Board of Railway Commissioners for Canada which, in its opinion, is a question of law.

MOTION to extend the time for the inscription for hearing of an appeal on leave granted by the Board of Railway Commissioners for Canada under section 56 (3) of the "Railway Act."

The circumstances in which the application was made are stated in the judgment now reported.

Larmonth for the motion.

Orde K.C. contra.

**Coram* Anglin J., in Chambers.

ANGLIN J.—A motion to extend the time for setting down an appeal from an order of the Board of Railway Commissioners, leave to appeal having been granted by the Board on the ground that the application before it involved questions of law. The questions of law in respect of which the Board has given leave are not stated or otherwise defined in its order granting leave. The statute clearly contemplates that the Board shall, before granting leave to appeal, determine that any question upon which an appeal to this court is allowed is a question of law. This involves the idea that the leave of the Board shall be given in respect of one or more specific questions, which should be stated, or otherwise sufficiently defined, in the order granting the leave. It is not for the parties, under a general order for leave to appeal, to raise such questions as they may wish to prefer, as questions of law; neither is it for this court to decide whether any question raised upon an appeal is or is not a question of law. The statute confers this power and imposes this duty upon the Board whose decision upon it is not open to review. Because the order of the Board granting leave to appeal did not specify or define, by reference or otherwise, the question or questions of law in respect of which leave to appeal was given, this court, in June last, refused to entertain an appeal in the "*Gatineau Valley Railway Case*."* Following that judgment, the present motion

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**The Canadian Pacific Railway Co. v. City of Ottawa Residents*.—This case came on for hearing before the Supreme Court of Canada on the 15th of June, 1910. On the case being called, the court took objection to the form of the submission of the case by the Board of Railway Commissioners and, after consultation, delivered the following opinion: "The majority of the court is of the opinion that we cannot hear the appeal at the present time, at least, as the Board of Railway Commissioners has not submitted any question which, in the opinion of the Board, is a question of law."

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must be refused. If, however, on application the Board sees fit to make an order giving leave to appeal in respect of specific questions which in its opinion are questions of law, this motion may be renewed.

Application refused.
