

TORONTO AND NIAGARA POWER CO. v. TOWN OF NORTH TORONTO—
MACLAREN, J.A., IN CHAMBERS—OCT. 25.

Appeal—Court of Appeal—Leave to Appeal Directly from Judgment at Trial—Case for Further Appeal to Supreme Court of Canada—Interest in Land—Consent to or Acquiescence in Judgment.]—Motion by the defendants for leave to appeal directly to the Court of Appeal from the judgment of BOYD, C., ante 77. The plaintiffs opposed the motion on two grounds: (1) because no further appeal would lie to the Supreme Court of Canada; and (2) because the judgment was in effect a consent judgment. Held, that an appeal would lie to the Supreme Court under sec. 48(a) of the Supreme Court Act, inasmuch as an interest in the lands and highways of the municipality of North Toronto would be in question and affected by the judgment complained of. Held, also, that there had been no consent on the part of the defendants to the judgment nor any such acquiescence as would deprive them of their right to appeal. Motion granted; costs to be costs in the appeal; the appeal to be expedited and to be set down for the November sittings. T. A. Gibson and Grayson Smith, for the defendants. D. L. McCarthy, K.C., for the plaintiffs.