

an order of the Ontario Railway and Municipal Board imposing a penalty on the Toronto Railway for not complying with an order of the Board requiring the railway to furnish 100 additional cars for its railway by 1 January, 1918. The order requiring the railway to furnish the additional cars was made on 27 February, 1917; subsequent to the making of that order a provincial statute (8 Geo. V. c. 30, s. 4) was passed in 1918 authorizing the Board to impose a penalty of \$1,000 a day in order to enforce compliance with its orders. The Board, without giving the railway any further time to comply with its order of February, 1917, on 19 April, 1918, imposed a penalty of \$24,000 for non-compliance with that order. On the argument of the appeal several points of importance were raised. First it was contended that the Act of 1918 was *ultra vires* of the Provincial Legislature as dealing in effect with a criminal matter. This was overruled, the Judicial Committee (Lords Haldane, Cave and Shaw) being of the opinion that it was merely the exercise of the power to enforce a Provincial law, and therefore covered by B.N.A. Act, s. 92 (15). Then it was urged that the Act of 1918 was directed simply to enforcing compliance with the order of the Board, and not for punishing a past breach of an order, but the Committee also overruled this objection; but their Lordships agreed with the contention that the Act contemplated that the penalty should not be imposed for past disobedience without first giving the railway a further opportunity to comply with the order, and on this ground allowed the appeal. One other objection was taken as to the status of the provincial Railway Board, viz.: that it being a Superior Court of Record, its members could only be validly appointed by the Dominion Government, but on this point their Lordships merely remark that it was fully considered by the Supreme Court of Ontario and decided against the appellants, but that it was not argued before their Lordships and not considered by them in consequence of the appeal being disposed of on other ground.

STREET RAILWAY—REMOVAL OF SNOW—BREACH OF STATUTORY DUTY—POWERS OF ONTARIO RAILWAY AND MUNICIPAL BOARD—NON-EXCLUSION OF COMMON LAW ACTION—ONTARIO RAILWAY ACT (R.S.O. 1914, c. 185) s. 260.

Toronto Ry. v. Toronto (1920) A.C. 455. This was an appeal from a decision of the Appellate Division of the Supreme Court of Ontario (44 O.L.R. 308). The principal ground of appeal was, that the Court had no jurisdiction to entertain the action which was brought by the City of Toronto to recover damages from the