

The judgment of the Divisional Court should be reversed and that of the trial Judge restored.

MEREDITH, J.A., gave reasons in writing for the same conclusion.

MOSS, C.J.O., GARROW and MAGEE, J.J.A., concurred.

*Appeal allowed, with costs in the Court of Appeal and in the Divisional Court.*

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DECEMBER 7TH, 1911.

RE CITY OF TORONTO AND TORONTO AND YORK  
RADIAL R.W. CO.

*Street Railways—Switches and Turn-outs—Municipal Corporations—Order of Ontario Railway and Municipal Board—Question of Law—Leave to Appeal—Scope of—Terms.*

Motion made to the Court of Appeal, on the 23rd November, 1911, by the Corporations of the City of Toronto and Town of North Toronto, for leave to appeal from an order of the Ontario Railway and Municipal Board, dated the 2nd October, 1911, whereby, among other things, plans of switches and turn-outs submitted by the railway company were approved and the construction thereof authorised.

The motion was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

H. L. Dayton, K.C., for the Corporation of the City of Toronto.

I. F. Hellmuth, K.C., and T. A. Gibson, for the Corporation of the Town of North Toronto.

C. A. Moss, for the railway company.

D. I. Grant, for Herbert Waddington.

The judgment of the Court was delivered by Moss, C.J.O.:—Application was made on the 23rd November last, on behalf of the City of Toronto and the Town of North Toronto, for leave to appeal from an order of the Ontario Railway and Municipal Board, dated the 2nd October last.