

CARTWRIGHT, MASTER.

JANUARY 13TH, 1905.

CHAMBERS.

CITY OF TORONTO v. TORONTO R. W. CO.

Consolidation of Actions—Identity of Parties—Similarity of Issues—Counterclaim.

Motion by defendants to consolidate 22 actions brought by plaintiffs against defendants to recover penalties amounting in all to \$15,100. The pleadings were similar in each action, but in one (No. 188) defendants counterclaimed for two sums of \$2,015 and \$2,362 damages alleged to have been caused on 6th and 7th February and from 28th February to 1st March, through negligence of plaintiffs in respect of the tracks during the severe weather which overtook the city at that time.

J. Bicknell, K.C., for defendants.

J. S. Fullerton, K.C., for plaintiffs.

THE MASTER.—Plaintiffs' counsel argued that the facts were not the same in all the cases. This, however, would, if considered decisive, prevent any consolidation at any time.

It would seem to me that plaintiffs have not adhered to that view themselves. The material shews that the last ten actions combine the whole period of 153 days from 1st June to 31st October. The facts can scarcely have been identical in the days of each of these groups.

I think the actions should be consolidated and tried together, except No. 188, which may be treated as substantially an action by the Toronto Railway Co. against the city.

It would seem more convenient to have the whole question dealt with at once, and it would probably be a great saving of costs.

CARTWRIGHT, MASTER.

JANUARY 13TH, 1905.

CHAMBERS.

WILLIAMSON v. MERRILL.

Discovery—Examination of Defendant—Defamation—Privilege—Statements made by Defendant to his Wife.

Motion by plaintiff for order requiring defendant to attend for re-examination for discovery and to answer questions 2403 to 2405 and question 2422. The action was for defamation. See the report of a former motion, 4 O. W. R. 528.

A. E. O'Meara, for plaintiff.

G. M. Clark, for defendant.