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JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

DECEMBER 18TH, 1919.

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

*Constitutional Law—Order of Dominion Railway Board for Payment by Provincial Railway Company of Part of Cost of Bridge for Carrying Highway with Tracks of Provincial Company thereon over Tracks of Dominion Railway Companies—Powers of Dominion Parliament—British North America Act, sec. 92—Dominion Railway Act, R.S.C. 1906 ch. 37, secs. 59, 237, 238 (8 & 9 Edw. VII. ch. 32)—Interest of Provincial Railway Company in Works—Making Order of Railway Board a Rule of Court—Railway Act, sec. 46—Intra Vires—Appeal to Judicial Committee—Special Leave to Appeal Directly from Orders of Railway Board—Prerogative of Crown—Court of Record—Petition for Special Leave—Long Delay in Applying—Innocent Misrepresentation as to Reason for Delay—Power to Rescind Special Leave.*

An appeal by the Toronto Railway Company (by special leave of the Judicial Committee) from three orders.

The first of these orders was made on the 3rd July, 1909, by the Board of Railway Commissioners for Canada, and directed that the Toronto Railway Company should bear a certain proportion of the cost of the construction of a bridge which the Corporation of the City of Toronto was by the order authorised to construct for the purpose of carrying the highway of Queen street east, Toronto, with the tracks thereon of the Toronto Railway Company, a provincial railway, over the tracks of the Canadian Pacific Railway Company, the Grand Trunk Railway Company, and the Canadian Northern Railway Company, all three Dominion railways.

The second order was dated the 30th November, 1917, and by it the Railway Board directed that the Toronto Railway Com-

\* This case and all others so marked to be reported in the Ontario Law Reports.