

# The Ontario Weekly Notes

Vol. II.

TORONTO, JANUARY 11, 1910.

No. 16.

## COURT OF APPEAL.

DECEMBER 30TH, 1910.

BEARDMORE v. CITY OF TORONTO.

*Appeal—Privy Council—Application to Allow Security—Jurisdiction—Matter in Controversy—10 Edw. VII. ch. 24.*

Application on behalf of the plaintiff for the allowance by the Court of the security required to be given in the case of an appeal from a judgment of the Court of Appeal to His Majesty in his Privy Council, as provided by the Act 10 Edw. VII. ch. 24.

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

E. F. B. Johnston, K.C., and J. S. Lundy, for the plaintiff.  
H. L. Drayton, K.C., and H. Howitt, for the defendants.

The judgment of the Court was delivered by Moss, C.J.O.:—  
The decision from which the appeal is proposed to be taken is reported 21 O.L.R. 505. It is there pointed out that the case had narrowed down to the discussion of the question of the legislative competency of the legislature of the province to enact in whole or in part certain specified Acts.

The nature of the case, and the questions raised undoubtedly bring it within the class of cases in which, not infrequently, the Judicial Committee of the Privy Council have considered it just and proper to advise His Majesty to grant leave to appeal.

But the granting or refusing of leave to appeal rests entirely with the Judicial Committee.

The Act under which this application is made does not confer on this Court the power to deal with an application for leave to appeal. The power is to allow the security required to be given by the appellant where the case is one which comes within the classes specified in sec. 2 of the Act. And the sole question here is whether this is such a case.