

He has refused, and the trial Judge had no alternative but to do what he did, viz., dismiss the action with costs.

There is nothing shewn here that was wrong; no reason for supposing that there was any wrong done.

Therefore, no useful purpose is served by setting that judgment aside.

Therefore, we will have to dismiss this appeal.

As no counsel appears to oppose the motion, we will dismiss it without costs.

NOTE.

HON. MR. JUSTICE RIDDELL:—(commenting on the statement of the plaintiff, appellant, to the effect that the trial Judge was prejudiced against him, and unjustly accusing him of being in contempt of Court, threatened him, and refused further to hear him. Mr. Broom had just stated that he had addressed the foregoing remarks about being prejudiced, etc., to the trial Judge),

Said: "Almost any other Judge to whom you thus addressed yourself, Mr. Broom, would have ordered you to be imprisoned for contempt of Court."

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

NOVEMBER 14TH, 1913.

TORONTO & YORK RADIAL R.W. CO. v. CITY
OF TORONTO.

Railway—Deviation of Line — Order of Ontario Railway and Municipal Board—Jurisdiction—Right of Appeal—Preliminary Opinion of Board not Appealed from—No Right to do so—Jurisdiction of Municipalities over Highways — Meaning of "Deviation"—Street Railways—What Constitute—Franchise—Necessary Extension of—Statutory Powers of Company—Rights of one Municipality as Successor of Another—Construction of Statutes.

COURT OF APPEAL, *held*, 28 O. L. R. 180, that under the various statutes relative to the Toronto and York Radial Railway Company and their predecessors in title, the Metropolitan Railway Company, and their agreements with the county of York, the said company had no right to deviate their line of railway from the west side of Yonge street where it had been constructed and to operate it along what was termed a private right-of-way parallel thereto, which right-of-way, however, crossed five highways within the municipal limits of the city of Toronto.

PRIVY COUNCIL affirmed above judgment with costs.

Order of Ontario Railway and Municipal Board set aside.

Appeal by leave of the Supreme Court of Ontario from an order of the First Appellate Division of that Court, dated the 13th day of February, 1913, allowing an appeal from an