

On the petition as it at present stands and with the present proof, I do not see my way to grant an order, but, as it appears to be a case in which the company should be wound up, the petitioners may, if they so desire, amend the present petition and offer such additional evidence as they may be advised and again present it within 14 days. In such case the costs of the present application and of the application to Idington, J., are reserved to be disposed of on that application. Failing that, the present application is dismissed with costs, the costs of the company in opposing the petition as at first presented being fixed at \$5.

CARTWRIGHT, MASTER.

SEPTEMBER 13TH, 1904.

CHAMBERS.

GEIGER v. GRAND TRUNK R. W. CO.

Parties—Joinder of Defendants—Separate Causes of Action—Personal Injuries—Negligence—Breach of Contract to Carry Safely—Railway Company—Breach of Statutory Duty.

Motion by defendants the Canadian Transfer Co. for an order requiring plaintiffs to elect against which of the two defendants they would proceed in this action.

The statement of claim alleged (3) that on 21st July, 1904, plaintiffs were being carried for reward by defendants the transfer company, in their omnibus, from the Yonge street wharf to the King Edward hotel, in the city of Toronto; but that (4) the said company so negligently and unskilfully conducted themselves in the management of their omnibus that it came into violent collision with two cars of defendants the railway company, where their railway crosses Yonge street, and the omnibus was caught between the cars and wrecked; (5) that defendants the transfer company were negligent in attempting to cross the railway track while the servants of the railway company were shunting and coupling cars, and also in not crossing at a greater speed; (6, 7, 8) that the crossing was dangerous in the highest degree to the thousands who have to cross Yonge street at that point, and that the railway company gave no warning in any way nor took any precaution, by reason whereof the collision occurred; (9) that the acts of the transfer company and the acts of the railway company were negligent and unskilful and occasioned the collision, whereby plaintiffs sustained serious injuries and damage.