

MACLAREN, J.A., IN CHAMBERS.

OCTOBER 9TH, 1915.

*RE TORONTO R.W. CO. AND CITY OF TORONTO.

Appeal—Privy Council—Proposed Appeal from Judgment of Appellate Division Affirming Order of Ontario Railway and Municipal Board—Right of Appeal—Privy Council Appeals Act, secs. 2, 3—Ontario Railway and Municipal Board Act, sec. 48(6).

Application by the Corporation of the City of Toronto for an order allowing the security and the applicants' appeal to the Judicial Committee of the Privy Council from the judgment of a Divisional Court of the Appellate Division, ante 62, dismissing the applicants' appeal from an order of the Ontario Railway and Municipal Board.

C. M. Colquhoun, for the applicants.

D. L. McCarthy, K.C., for the railway company.

MACLAREN, J.A., said that the company contended that there was no right of appeal from the judgment in question except by leave of the Judicial Committee, citing *E. W. Gillett & Co. Limited v. Lumsden*, [1905] A.C. 601; *City of Toronto v. Toronto Electric Light Co.* (1906), 11 O.L.R. 310; and *Canadian Pacific R.W. Co. v. City of Toronto* (1909), 19 O.L.R. 663. But, the learned Judge said, the appeals in all three cases were under what is now sec. 2 of the Privy Council Appeals Act, R.S.O. 1914 ch. 54; while the present application came under sec. 48(6) of the Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, and was completely covered by that enactment; and sec. 3 of ch. 54 applied to it as fully as if it had been brought under sec. 2 of that Act.

Order made approving the security and allowing the appeal.