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No. 21.

HIGH COURT OF JUSTICE.

RIDDELL, J.

FEBRUARY 3RD, 1911.

REX v. TORONTO R.W. CO.

Criminal Law—Indictment of Street Railway Company for Nuisance—Verdict of "Guilty" on one Count—Disagreement of Jury on Remaining Counts—Postponement of New Trial on these Counts—Terms—Undertakings—Exclusive Jurisdiction of Ontario Railway and Municipal Board—Reservation of Case for Court of Appeal—Deferring of Sentence.

An application by the defendants to postpone the trial of those counts in an indictment for common nuisance against the defendants. defendants which the jury failed to pass upon at the trial.

H. L. Drayton, K.C., for the Crown. W. Nesbitt, K.C., for the Crown.
lts. Nesbitt, K.C., and H. H. Dewart, K.C., for the defen-

RIDDELL, J.:—The indictment contains six counts. Of these, first door. the first deals with the appliances for protection of life, etc., of persons in the second and third with the persons in the street generally; the second and third with the death of a last street generally; the second with "Y"-ing or moving death of a lad, Goldenberg; the fourth with "Y"-ing or moving street, the condition of the street generally; the second and third with reversely. reversely; the counts 6 and 6A with overcrowding. The jury found a verdict of guilty on the count charging overcrowding to such an extent as to endanger the property and health of the public; but failed to agree upon that charging overcrowding to such an extent as to endanger the property and nearest to such an extent as to endanger the property and nearest to such an extent as to endanger the property and nearest to such an extent as to endanger the property and nearest to such as the such as the extent as the exten to such an extent as to endanger health, etc.—why or on what should or extent as to endanger health, etc.—why or on what inability to understand—and ground or extent as to endanger health, etc.—why or on algo failed to four counts. This disagreealso failed principle I confess my inability to understand ment on the agree upon the first four counts. This disagreenent on the first four counts. This disagree called for the first four counts is quite intelligible, as the evidence called for the first four counts is quite intelligible, as the even not behind, but defence indicated that the defendants were not in high defence in high defence indicated that the defendant high defence in hi behind, but actually in advance of, any other on this continent in life-saving appliances—while it was sworn by men of great experience in appliances—while it was sworn by men of great experience in appliances—while it was sworn by men of great experience in that the means suggested experience in street railway operation that the means suggested