

TRIAL.

CITY OF TORONTO v. GRAND TRUNK R. W. CO.

*Railway—Bridge—Contribution to Cost and Maintenance—
Liability of Railway Company—Construction of Agree-
ments with City Corporation—Exemption or Indemnity.*

Action by the corporation of the city of Toronto against the Grand Trunk R. W. Co. and the Canadian Pacific R. W. Co. to have it declared that the Grand Trunk Co. were liable under an agreement between them and the other parties to the action, dated 26th July, 1892, to contribute to the cost of an iron overhead bridge on York street, Toronto, spanning the tracks of defendants; and that the Grand Trunk Co. were not exempt or entitled to be indemnified by plaintiffs from liability to contribute to the cost of the bridge in question. Defendants the Canadian Pacific Co. were in the same interest as plaintiffs.

Defendants the Grand Trunk Co., by their statement of defence, denied any liability under the agreement or otherwise, and they asserted that under certain agreements with plaintiffs they were exempt, as between themselves and plaintiffs, from, and entitled to be indemnified by plaintiffs against, any liability to contribute to the building of the bridge.

C. Robinson, K.C., and J. S. Fullerton, K.C., for plaintiffs.

S. H. Blake, K.C., W. Cassels, K.C., and W. A. H. Kerr, for defendants the Grand Trunk Co.

E. D. Armour, K.C., and Angus MacMurchy, for defendants the Canadian Pacific Co.

STREET, J.—The facts bearing on the case are not in dispute, and the whole question seems to turn upon the construction to be given to the agreement of July, 1892, and to the various Acts of Parliament and the numerous previous agreements between plaintiffs and the Grand Trunk Co.

The agreement of July, 1892, contains a large number of clauses relating to the tracks of the two railway companies and the conduct of their freight and passenger business in the city of Toronto, manifestly intended for the mutual convenience and benefit of the three parties to it. . . .