

# The Ontario Weekly Notes

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No. 24

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

JANUARY 20TH, 1920.

TORONTO R.W. CO. v. CITY OF TORONTO.  
(SNOW CASE).

*Street Railway—Agreement with City Corporation—Removal by City Corporation from Streets of Snow and Ice Deposited thereon by Street Railway Company—Action to Recover Cost of Removal—Jurisdiction of Court—Jurisdiction of Ontario Railway and Municipal Board—Ontario Railway Act, R.S.O. 1914 ch. 185, sec. 260—Construction of Act Incorporating Railway Company, 55 Vict. ch. 99, sec. 25 (O.)—Construction of Agreement of 1891, Conditions 21 and 22—Damages—Breach of Statutory Prohibition—Tort.*

Appeal by the Toronto Railway Company from the judgment of the Appellate Division of the Supreme Court of Ontario, *City of Toronto v. Toronto R.W. Co.* (1918), 44 O.L.R. 308, affirming the judgment of LENNOX, J., S.C. (1918), 42 O.L.R. 603, in favour of the plaintiffs, the Corporation of the City of Toronto, in an action for the recovery of the cost of the removal by them of snow swept by the railway company from the tracks of their railway on to the solum of the streets on the side of the tracks.

The appeal was heard by VISCOUNT FINLAY, VISCOUNT CAVE, and LORD SHAW.

D. L. McCarthy, K.C., for the appellants.

G. R. Geary, K.C., and Irving S. Fairty, for the respondents.

LORD SHAW, reading the judgment of the Board, said, after stating the facts, that there were, in fact, only two points in the appeal. The first was a point of jurisdiction, it being maintained that (in view of the comprehensive powers of the Ontario Railway and Municipal Board) Courts of law had no jurisdiction to give a