

An appeal from a judgment of the Court of Appeal for Ontario, of February 1st, 1912, 25 O. L. R. 475; 21 O. W. R. 175; 3 O. W. N. 609, reversing a decision of Chancellor Boyd, 24 O. L. R. 537; 20 O. W. R. 57; 3 O. W. N. 77.

See also 19 O. W. R. 937; 2 O. W. N. 1507; 20 O. W. R. 260; 3 O. W. N. 164.

The appeal to the Judicial Committee of the Privy Council was heard by VISCOUNT HALDANE, L.C., LORD MACNAGHTEN, LORD DUNEDIN, LORD ATKINSON, and SIR CHARLES FITZPATRICK.

Hon. Wallace Nesbitt, K.C. (of the Canadian Bar), Mr. Atkin, K.C., and Mr. D. L. McCarthy, K.C. (of the Canadian Bar), appeared for the appellants.

Sir Robert Finlay, K.C., and Mr. T. A. Gibson (of the Canadian Bar), for the respondents.

THE LORD CHANCELLOR, in delivering their Lordships' judgment to-day said the question raised by the appeal was whether the appellant company might enter upon the streets of the town of North Toronto for the purpose of erecting poles to carry power lines for the conveyance of electricity. Chancellor Boyd decided that they had such power, but subject to compliance with certain conditions. The Court of Appeal reversed his judgment, holding that the appellants had no such power unless they had first obtained the leave and license of the respondent corporation.

By their act of incorporation in 1902, the appellants were given, unless the powers which it *prima facie* conferred were restricted by the Railway Act, very large powers which entitled them to succeed in the present action. If it could be taken by itself, their Lordships were of opinion that the Act shewed that the Parliament of Canada treated the company, the works of which were expressly declared to be for the general advantage of Canada, and so brought within sec. 91 of the British North America Act, as proper to be entrusted with freedom to interfere with municipal and private rights. For that there might well have been, on the balance of advantages, good reason, the purpose of the company being to bring electric power from Niagara Falls to parts of Canada, to reach which its lines would have to pass through a series of municipal areas. To make its powers of entry subject to the veto of each municipality might mean