

Act may demand possession of goods taken in execution and thereby stop the sale.

SALE OF GOODS—GOODS NOT ACCORDING TO CONTRACT—RE-SALE BY PURCHASER—WARRANTY—CONDITION NEGATING WARRANTY.

In *Wallis v. Pratt* (1911) A.C. 394, the House of Lords (Lord Loreburn, L.C., and Lords Ashbourne, Alverstone, and Shaw), have reversed the decision of the Court of Appeal (1910) 2 K.B. 1003 (noted ante p. 101), for the reasons given by Moulton, L.J., who dissented from the judgment of the other members of the Court of Appeal, and held that the plaintiffs were entitled to recover damages consequent on defendant's breach of warranty, including the damages which the plaintiffs had been compelled to pay to third parties to whom they sold the goods in question.

CANADIAN RAILWAY ACT, 1906, s. 2, SUB-S. 11; s. 2, SUB-S. 28; s. 56, SUB-SS. 2, 3, 9; s. 238—RAILWAY BOARD—HIGHWAY—56 VICT. c. 48 (D.)—PREROGATIVE RIGHT TO GRANT SPECIAL LEAVE TO APPEAL.

*Canadian Pacific Ry. v. Toronto, and Grand Trunk Ry.* (1911) A.C. 461. This was an appeal to His Majesty in Council from a decision of the Supreme Court of Canada. In January, 1904, the Railway Committee of the Privy Council in London in the exercise of its powers preserved to it under s. 238 of the Railway Act (now R.S.C. c. 37), ordered the appellants and respondent railway to construct bridges over their lines of railway where they crossed Yonge street in the city of Toronto. Subsequently the Railway Board, which was instituted by the Railway Act of 1903, in June, 1909, ordered the appellant and respondent railways to construct a viaduct several miles long for the purpose of carrying their railways over, inter alia, Yonge street. The Supreme Court of Canada had upheld the order of the Railway Board. The appellants obtained special leave to appeal to His Majesty in Council, and on the opening of the appeal, counsel for the City of Toronto contended that no appeal lay, as under s. 56 (3) of the Railway Act, the decision of the Supreme Court is declared to be final. This point, however, was overruled, their Lordships holding that the statute does not do away with the prerogative right to grant special leave to appeal. On the merits their Lordships (Lord Loreburn, L.C., Macnaghten, Atkinson, Shaw, and Robson) agreed with the