

THE
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ANGLIN, J.

NOVEMBER 11TH, 1904.

CHAMBERS.

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

(TWO ACTIONS.)

*Trial—Postponement—Determination of Questions Arising
in another Action Pending.*

Appeal by plaintiffs from order of Master in Chambers (ante 221) staying proceedings in two actions until the disposition of a certain other action pending between the same parties, and commonly known as the "omnibus action."

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

J. Bicknell, K.C., for defendants.

ANGLIN, J.—The chief reason for making the order was that some of the issues raised in the omnibus action are identical with those invoked in these actions, and depend upon questions of construction of the principal agreement between these parties, which have been formulated in a special case. This special case has been heard and disposed of by me since the Master's order was made (see ante 330). As to the questions involved in that case an answer to which may affect issues in these actions, there need be no delay in proceeding with the trials of the latter. Plaintiffs' claim is for statutory damages for non-compliance by defendants with certain determinations of the city engineer, approved by the city council, in regard to "service" required upon certain lines of defendants' railway. The right to make such determinations and to require their observance by defendants has been affirmed in answer to the second question propounded in the special case above mentioned. It should not