

70 & 71, 1930

In the Privy Council.

No. 16 of 1930.

ON APPEAL

FROM THE SUPREME COURT OF CANADA.

BETWEEN

THE CANADIAN PACIFIC RAILWAY COMPANY
and CANADIAN NATIONAL RAILWAYS - *Appellants*

AND

10 THE TORONTO TRANSPORTATION COMMIS-
SION and THE CORPORATION OF THE
CITY OF TORONTO - - - - - *Respondents*
(ROYCE AVENUE SUBWAY)

AND BETWEEN

THE TORONTO TRANSPORTATION
COMMISSION - - - - - *Appellants*

AND

20 CANADIAN NATIONAL RAILWAYS, THE
CANADIAN PACIFIC RAILWAY COMPANY
and THE CORPORATION OF THE CITY
OF TORONTO - - - - - *Respondents.*
(BLOOR STREET SUBWAYS)
CONSOLIDATED APPEALS.

Case for the Respondent

THE CORPORATION OF THE CITY OF TORONTO.

RECORD.

1. These consolidated appeals are by the Canadian Pacific Railway Company and the Canadian National Railway Company (hereinafter referred to as "the Railway Companies") and a cross-appeal by the Toronto Transportation Commission, by special leave, from a judgment

CASE FOR THE CORP. OF THE
CITY OF TORONTO

p. 71. of the Supreme Court of Canada dated the 26th September 1929 in part allowing and in part dismissing an appeal by the Toronto Transportation Commission from an Order of the Board of Railway Commissioners for Canada, No. 40367, made on the 16th February 1928, apportioning between the parties to these appeals the cost of constructing subways under the lines of the Railway Companies at Royce Avenue and at Bloor Street in the City of Toronto.

p. 39.

The appeal of the Railway Companies is from so much of the said judgment of the Supreme Court as set aside by a majority (Mignault, Newcombe and Lamont, JJ., Anglin, C.J.C. and Smith, J. dissenting) 10

p. 72, l. 27. a direction contained in the Order No. 40367 that the Toronto Transportation Commission should contribute a proportionate part to the cost of the Royce Avenue Subway.

The appeal of the Toronto Transportation Commission is from so much of the said judgment as affirmed unanimously a direction contained in the Order No. 40367 that the Toronto Transportation Commission should contribute a proportionate part to the cost of the Bloor Street Subways.

p. 72, l. 23.

2. The Respondent the Corporation of the City of Toronto is supporting the appeal of the Appellants the Canadian Pacific Railway Company and the Canadian National Railway Company and opposing 20 the appeal of the Appellant the Toronto Transportation Commission.

3. The Respondent the Corporation of the City of Toronto refers to the Case of the Appellants the Canadian Pacific Railway Company and the Canadian National Railway Company which contains an adequate statement of the questions involved and of the reasons why the judgment in appeal should be affirmed.

4. The Respondent the Corporation of the City of Toronto concurs in and adopts the Case of the Respondents the Canadian Pacific Railway Company and the Canadian National Railway Company and submits that for the reasons therein given so much of the judgment of the Supreme 30 Court dated the 26th September 1929, as varied the Order of the Board No. 40367 by setting aside the direction that the Toronto Transportation Commission should contribute to a proportionate part of the cost of the Royce Avenue Subway is wrong and ought to be reversed and that the remainder of the said judgment ought to be affirmed.

W. N. TILLEY.
G. R. GEARY.
F. A. A. CAMPBELL.

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and

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(Royce Avenue Subway)

AND BETWEEN

THE TORONTO TRANSPORTATION COMMISSION - - - - - *Appellants*

and

CANADIAN NATIONAL RAILWAYS, THE CANADIAN PACIFIC RAILWAY COMPANY and THE CORPORATION OF THE CITY OF TORONTO - - - - - *Respondents.*

(Bloor Street Subways)

Consolidated Appeals.

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THE CORPORATION OF THE CITY OF TORONTO.

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