

street became included within the boundaries of the city of Toronto but a small portion at the northern end situated opposite to and to the south of Farnham avenue still remained within the County of York.

Prior to the above-mentioned extension of the boundaries of the city of Toronto, and while the said portion of Yonge street was still within the county of York, an agreement, dated the 25th June, 1884, was made between the Municipal Council of such county and the Metropolitan Street Railway Company of Toronto. By the terms of that agreement the railway company obtained the right to construct, maintain, complete, and operate a rail track in, upon, and along the above portion of Yonge street, such track to be located and constructed on the west side only of the said street, according to plans to be approved. The company undertook to run at least two cars each way, morning and evening, on a regular time table, at such times as would best meet the wants of the residents and the general public. The privilege and franchise granted by the agreement were to extend over a period of 21 years from its date, and subject to the observance of the conditions and agreements therein contained (which covered many matters not directly relevant to the present dispute) the company were to have the exclusive right and privilege to construct a street rail, or tramway in and upon the said portion of Yonge street. By a further agreement between the same parties, dated the 20th day of January, 1886, the privilege granted by the preceding agreement were confirmed and enlarged in various respects not relevant to the present case, otherwise than that by clause 16 of this agreement the privilege and franchise granted by it in the previous agreement were made to extend over a period of 31 years from the 25th day of June, 1884, so that they will expire in June, 1915.

It is solely under the two agreements above referred to that the Metropolitan Street Railway Company of Toronto acquired and that their successors, the present appellants, possess the right to maintain and operate the street railway along the portion of Yonge street to which this case relates, and they are bound in respect of such privilege and franchise by all the terms and conditions of such agreements. Very numerous Acts of Parliament (being either general Railway Acts, relating to all railways in the province, or special Acts relating to the appellant company or companies,