the right claimed did not pass—by the decisions of the Court of Appeal and the Judicial Committee of the Privy Council in the Queen street west extension case, City of Toronto v. Toronto R.W. Co. (1905), 5 O.W.R. 130, 132; Toronto R.W. Co. v. Toronto Corporation, [1906] A.C. 117.

The restriction effected by the franchise of the Metropolitan Railway Company being removed during the period of 30 years, the city corporation cannot withhold from the company the exclusive right to operate upon this part of the street in the same manner as upon the other streets of the city.

It was said by the city corporation that the city engineer did not withhold his approval of the plans. Perhaps that might be so if only that was to be considered which took place before the application to the Board; but the proceedings before the Board were a sufficient submitting of the plans to him under clause 12 of the conditions of the agreement (p. 908 of the Statutes of Ontario for 1892).

The appeal should be dismissed with costs.

LATCHFORD and LENNOX, JJ., concurred.

KELLY, J., also concurred, for reasons stated in writing.

Appeal dismissed with costs.

OCTOBER 8TH, 1915.

SMITH v. SMITH.

Parent and Child—Son Working for Father on Farm—Wages—Presumption—Rebuttal—Contract—Evidence.

Appeal by the defendant from the judgment of FALCONBRIDGE, C.J.K.B., 8 O.W.N. 615.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

J. H. Spence and C. S. Cameron, for the appellant.

H. G. Tucker, for the plaintiff, respondent.

THE COURT allowed the appeal to the extent of reducing the amount of the plaintiff's judgment to $750; no costs of the appeal to either party.