

The only guarantee to this effect is found also in the agreement of 21st January, 1856, in the concluding part of the 17th paragraph, introduced for the purpose of declaring the intention of the previous part of the paragraph more fully. It, therefore, must fall with the preceding portion of the paragraph, under the terms of the agreement of 30th August, 1856. The only guarantee in the latter agreement is found in the 7th paragraph, and . . . that is a guarantee of another character.

3rd. That, under certain existing agreements, the Grand Trunk Co. have the right and privilege to cross streets of the city on the level for the purpose of access to their stations and freight sheds in the city, in such way and as often as their business requires.

I can find no such general right in any agreement with the city.

Their rights under the agreements prior to the agreement of 26th July, 1892, seem to be confined, at York street, to those of running along and crossing the Esplanade and Esplanade street, including the right of crossing York street at its junction with the Esplanade and Esplanade street; but I can find nowhere in the agreements made before 26th July, 1892, now in force, a right given them to cross York street at any point not included within the limits of the Esplanade and Esplanade street, either at the level of the street or otherwise.

My conclusion, therefore, is, that the Grand Trunk Co. are not entitled, under any of their agreements with the city or otherwise, to exemption from liability to contribute to the cost of the construction and maintenance of the York street bridge, or to indemnity from the city against any such liability.

There should, therefore, in my opinion, be judgment containing a declaration to that effect, and declaring the liability of defendants the Grand Trunk Co. to be assessed for their proportion of the cost and maintenance of the bridge, such proportion to be ascertained in the manner provided by the agreement of 26th July, 1892; and defendants the Grand Trunk Co. should pay the costs, including those of a former trial, of plaintiffs and the Canadian Pacific Co.