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Council of Canada, reciting the consent of counsel on behalf of the corporation of the city of Toronto, approved of the defendants connecting their tracks with the tracks of the Canadian Pacific Railway by means of a switch, as shewn on a plan annexed to the order, and on the conditions imposed by the order:

*Held*, that the defendants had not the right, without the authority or consent of the city corporation, to occupy or expropriate or otherwise to force their way over a part of Yonge Street within the limits of the city so as to enter the lands of the Canadian Pacific Railway Company and make the proposed junction. The order of the Railway Committee was to be regarded as dealing only with the mode of junction or union, and not as professing to expropriate a right of way over the highway. And the consent of counsel for the city corporation, when before the Railway Committee, was to be viewed in the same way. Section 173 of the Railway Act of Canada does not give the Railway Committee power to expropriate land or to deal with the right of property. The protection of the crossing or junction is the object of the Committee, which has to approve of the place and mode thereof, and which is not concerned, so far as this section applies, with how the railways arrive at the point of union.

*Held*, also, that the defendants had not, by virtue of any statute or agreement, viewing their road as a mere street railway, the right to expropriate the right of way; and even if their road was a railway within the meaning of the Railway Act, section 183 was not applicable, for the proposition here was not to carry the tracks "along an existing highway;" and they could not avail themselves of section 187, for the provisions of law applicable to the taking of land by the company had not been complied with.

The plaintiffs were therefore entitled, without derogation of the order of the Railway Committee, to an injunction restraining the defendants from effecting the proposed junction by the method shewn on the plan.

By an agreement made between the plaintiffs and defendants, the defendants agreed that, upon receiving at any time twenty-four hours' notice from the plaintiffs' engineer, they would cease running their cars by electricity on the portion of Yonge Street within the city limits:—

*Held*, that, nothing having occurred to operate as a waiver by the plaintiffs of this term of the agreement, and the notice having been duly given, the plaintiffs were entitled to an injunction restraining the defendants from propelling their cars by electricity within the limits