

1898; judgment was pronounced in favour of the plaintiffs on the 2nd September, 1898.

The statute confirming the agreement between the plaintiffs and the defendants respecting the street railway, was passed in 1892, 55 Vict. ch. 99, and declared that the purchasers of the original street railway (now the defendants) were entitled to the exclusive right and privilege of using and working the street railways in and upon the streets of the city of Toronto—except . . . that portion of Queen street (Lake Shore road) west of Dufferin street; and also that the purchasers (company) acquired and were entitled to such right and privilege (if any) over the said excepted portion of Queen street . . . as the corporation of the city of Toronto had at the time of the execution of the said agreement (1st September, 1891), power to grant for a surface street railway. Adding a proviso that nothing should limit or interfere with, affect, or prejudice the rights any privileges (if any) of the corporation of the County of York or of the Toronto and Mimico Electric Railway and Light Company (Limited) over the said portion of Queen street (Lake Shore road), as they existed at the time of the passing of the said statute (14th April, 1892).

At that date this portion of the Lake Shore road, which had originally been within the municipal boundaries of the town of Parkdale, was, by the annexation of Parkdale to Toronto in 1889, brought within the municipal boundaries of the city of Toronto.

This York road was constituted a turnpike or macadamized road by 7 Wm. IV. ch. 76) sec. 4 (1837), and was acquired by the united counties of York and Peel in 1864. And by the Act 29 Vict. ch. 69 (1865) it (together with the other York roads) was vested in the county of York. These York roads were originally placed under the control of commissioners, who by the Act 3 Vict. ch. 73, sec. 2, "had power and authority over the several macadamized roads so far as the same has been authorized by any Act of the Legislature."

For all practical purposes of keeping the road in repair and collecting tolls, the corporation of the county of York occupied, as to this Lake Shore road, the same position as the original commissioners, or as an ordinary turnpike roads company would occupy. The municipal jurisdiction of the corporation of the city of Toronto over it as a street or highway was not ousted, though to some extent limited by reason of the toll or turnpike franchise of the county.

It is not only a general principle of municipal law, but is part of the Municipal Act, that the inhabitants of the ter-