

MACLAREN, J.A., agreed in the result.

MAGEE, J.A., agreed with GARROW, J.A.

HODGINS, J.A., also agreed in the result, stating reasons in writing, which, at the end, he summarised as follows:—

(1) The Act of 1877, 40 Vict. ch. 84, does not incorporate the sections of C.S.C. ch. 66 relied on by the Board so as to enable the powers given to be now exercised except outside the present limits of the city.

(2) These limits are the limits existing when any application is made in which reliance has to be placed on the sections referred to for the right to exercise the desired powers.

(3) The rights of the respondent company are to be put in force only under any subject to the agreements which they from time to time make with the municipalities concerned; and the agreements define the rights with which the respondent company is clothed in the absence of express legislation.

(4) The municipalities concerned are those which have jurisdiction over the streets and highways in question when an agreement is actually made.

(5) The Corporation of the County of York had, on the date when the 1894 agreement became effective—the 25th October, 1896—lost jurisdiction over that portion of Yonge street in question, and the Corporation of the Township of York then possessed it.

(6) The township corporation was not shewn to have given any permission or agreement while it had such jurisdiction.

(7) That portion of Yonge street passed to the city corporation in 1908 unaffected by the provisions of the 1894 agreement.

(8) That agreement, even if it bound the city corporation, does not comprehend such a deflection as is allowed here, under any of its terms, nor under any that ought to be implied.

(9) The Board had no power, either under any agreement already made or under any statute, to make the order appealed from, giving the right to connect with terminals or with tracks and buildings on the lot in question for the accommodation of passengers and freight.

KELLY, J., agreed in the result, for reasons stated in writing.

*Appeal allowed with costs.*