

to be admitted free. The appellants were incorporated by an Ontario statute passed in 1892. They received authority to construct and work a double or single track railway in Toronto. By the Ontario Street Railway Act, 1887, companies chartered for that purpose might construct and work a double or single iron railway with necessary side tracks. Section 5 provided that the railway track should conform to the grades of the streets, and section 6 that all other vehicles might use and travel on the tracks, but giving place to the company's cars by leaving the tracks. The same expressions were found in an Ontario statute on the same subject passed in 1883. The appellants then were then the owners of what the Legislature of their own province called a single or double track street railway, and the line on which they worked was called "a railway track." Those expressions were not conclusive as to the meaning of the term as used by the Dominion Legislature in the Act under discussion. But they showed that the term was known to draftsmen of statutes in Canada and was there applied to such a line as that of the appellants. It seemed to their Lordships to be good evidence as to the meaning of the term in the mouth of a Canadian Legislature, and to afford *prima facie* ground for holding that "railway track" included a line of street railway. Then did the Act of 1887 contain any intrinsic evidence that the expression had some other meaning? Their Lordships looked at the course of legislation on the subject. The first Act which imposed a duty on rails was passed in 1879, when one rate of duty was placed on "iron rails or railway bars for railways or tramways" and another rate on "steel railway bars or rails." According to the grammatical construction of the first of those sentences iron railway bars were applicable both to railways and to tramways, and steel railway bars or rails appeared to have the same application. There was no distinction taken between railways and tramways for that purpose. In 1883 "steel railway bars or rails" were exempted from duty, and they remained free till 1885, when a new Act was passed which exempted "steel railway bars or rails, not including tram or street rails." That was the first mention of street rails, and it seemed that the expression "railway bars or rails" was calculated to include tram rails and street rails (if, indeed, there was any difference between them) and that express words were