

what new lines should be laid down on streets within the city as existing at the date of the agreement, and what routes should be adopted by the company. These conclusions were embodied in an order in council bearing date the 7th May, 1907. The streets in question in the present proceeding are within the city as existing at the date of the agreement; and the decision of the Judicial Committee and the order in council are binding upon all concerned, unless they are deprived of their effect by the enactment of sec. 1 of the Act 8 Edw. VII. ch. 112*, which confessedly was passed by the Ontario Legislature upon the petition of the corporation in view of the decision of the Judicial Committee. It is urged on behalf of the corporation that it manifestly appears from their Lordships' reasons that their opinion as to the true construction and meaning of the agreement was based entirely upon their reading of the Act 55 Vict. ch. 99 (O.), and especially of sec. 4; and it is contended that the result is that this Court is now at liberty to revert to the view entertained by it (10 O. L. R. 657) and the majority of the Judges of the Supreme Court (37 S. C. R. 430). . . . The Railway and Municipal Board in dealing with the questions before it treated the Act 55 Vict. ch. 99 as a mere incorporating and invalidating Act, and proceeded to try the rights of the parties as they existed under the agreement alone, unaffected except as to validation by the Act; and, having regard to the plain object and intent of that Act, as well as to the declaration of sec. 1 of 8 Edw. VII. ch. 112, there can be no question as to the propriety of dealing with the agreement in that light. The conclusion of the Board is in harmony with what has been determined by the Judicial Committee. . . . After careful perusal and consideration of their Lordships' reasons, I . . . am unable to conclude that their opinion as expressed as to the true meaning of the agreement was not, at least in part, formed upon a consideration of the language and terms of the agreement itself. . . . Nothing remains but to follow the decision embodied in the order in council.

Appeal dismissed with costs.

*1. Notwithstanding anything contained in the Act 55 Vict. ch. 99, and intituled an Act to Incorporate the Toronto Railway Company, and to confirm the agreement between the corporation of the City of Toronto and George W. Kiely . . . ; and notwithstanding any judicial decision interpreting the effect of the said Act and the said agreement, it is hereby declared that it is and always has been the true meaning and intent of the said Act that the rights retained by and secured to the corporation of the city of Toronto by the said agreement as to the control and management of the streets of the said city, and as to establishing and laying down new lines of railway, and as to extending the street car service upon the streets of the said city, as may be from time to time recommended by the city engineer and approved by the city council, have not been and are not affected by the said Act, but said rights remain and are as set out in the said agreement scheduled to the said Act."