



No. 3484. A BY-LAW

To authorize the operation of a Sunday service of street cars in the City of Toronto.

[Passed June 14th, 1897.]

Whereas a certain agreement has been entered into between the Corporation of the City of Toronto and the Toronto Railway Company in the words and figures following :

This Indenture, made in triplicate the twenty-sixth day of March in the year of our Lord one thousand eight hundred and ninety-seven,

Between—The Corporation of the City of Toronto, hereinafter called the
“ Corporation,” of the First Part,

And—The Toronto Railway Company, hereinafter called the “ Company,”
of the Second Part.

1. Whereas by an indenture made the first day of September, 1891, between the said Corporation of the first part, and George Washington Kiely, William McKenzie, Henry Azariah Everett and Chauncey Clark Woodworth, hereinafter called the “ Purchasers ” of the second part, the said Corporation, for the consideration therein expressed, did grant unto the said purchasers, as therein provided, the right to operate surface street railways in the City of Toronto, upon the terms and conditions therein mentioned.

2. And whereas the said purchasers were duly incorporated by an Act of the Legislature of the Province of Ontario, intituled “ An Act to Incorporate the Toronto Railway Company and to Confirm an Agreement between the Corporation of the City of Toronto and Geo. W. Kiely, William McKenzie, Henry A. Everett and Chauncey C. Woodworth,” and the said agreement, with the conditions, documents and schedules therein referred to, is validated construed and limited as therein mentioned.

3. And whereas the said purchasers have duly granted and assigned to the Company the said agreement, and the properties, rights and privileges therein mentioned, and the said Company has been duly substituted as the contracting party with the said Corporation, in the place and stead of the said purchasers, under the said agreement, and the said agreement, conditions and documents contained in the said Act of Incorporation, form the existing contract between the Corporation and the Company in regard to the street railway privilege of the City of Toronto.

4. And whereas it is provided in Clause 40 of the conditions annexed to the said agreement that no car shall be run on the Lord's Day until a Sunday service has been approved of by the citizen's by a vote taken on the question.

5. And whereas, by section 1 of the said Act the Company is declared entitled to the exclusive right and privilege of using and working the street railways in and upon the streets of the said City, with certain exceptions therein set out, for the full period of thirty years from the first day of September, 1891, on all days except Sundays, and no longer, but subject nevertheless to all the conditions, provisos and restrictions in the said agreement expressed or contained, and as hereinafter mentioned, and it is therein provided that notwithstanding anything in Schedule "A" thereto, or in the said Act contained, no street car shall run on the Lord's Day, but that nothing therein contained shall extend to prohibit the doing of any act which is not a contravention of the Revised Statute, chapter 203, intituled "An Act to prevent the profanation of the Lord's Day," if and when such act shall have been approved of by the citizens by a vote taken on the question, as provided by the said agreement.

6. And whereas, a largely signed petition has been sent in to the Council of the said Corporation asking to have submitted to the vote of the citizens the question of operating a Sunday service, and it is deemed expedient to enter into an agreement as to such Sunday service, and the character and extent thereof, as provided by the Act 57 Victoria, chapter 93, and this agreement is being entered into upon the assumption that the running of cars upon the Lord's day is an act not prohibited by the Lord's Day Act.

7. Now therefore this indenture witnesseth that the Corporation and the Company do by these presents mutually and respectively admit, declare and agree with each other, and with the successors and assigns of each other, that all the conditions, agreements and stipulations contained in the said agreement dated the first day of September, 1891, and in the Act of incorporation of the Company and the schedules incorporated therewith, inclusive of the obligation of the Company to pay the percentages on the gross receipts under the ninth condition of sale of the Street Railway franchise of the City of Toronto, and under the sixteenth paragraph of the said agreement, are all valid, binding and operative conditions, agreements and stipulations between the Corporation and the Company, and do and shall relate to and govern all the mutual and respective obligations of the Corporation and the Company, on Sunday as on every other day of the week, except so far as the same are varied by this agreement.

8. It is mutually agreed that the cars shall be run upon Sundays over the whole and entire system of street railway tracks in the City of Toronto, and any extensions of the same which may be hereafter made during the

continuance in force of the agreement hereinbefore in part recited, and shall include a night service if deemed necessary by the City Engineer and the City Council.

9. It is also mutually agreed that the speed of the cars and the number of cars to be run per hour, which are necessary on each main line or branch, or any part thereof, shall be as determined by the City Engineer from time to time, and approved of by the Council.

10. It is also mutually agreed by and between the parties hereto that the cars shall not run at a greater speed than four miles an hour while passing any place of worship or Sunday School building during the hours of all services, and the gong or gongs thereon shall not ring within 200 feet of any place of worship or Sunday School building during the hours of all services; provided that the authorities of such Church or Churches erect a sign on the street line, satisfactory to the City Engineer, announcing their hours of service, and that the performance of this clause may be specifically enforced by the order and injunction of the High Court of Justice.

11. The service upon any street, or portion of the same, may be discontinued if recommended by the City Engineer and mutually agreed upon by the City Council and the Railway Company, but not otherwise, and such service, or any portion or portions thereof, may be thereafter restored by the order of the Engineer with the approval of the City Council as aforesaid, when such may be considered advisable or necessary.

12. And the said Company, in consideration of the premises and also in consideration of the said Corporation submitting the question of the running of the cars upon Sunday to the vote of the citizens, doth for itself, its successors and assigns, covenant, promise and agree with the said Corporation, that the said Company, its successors and assigns, will not require or permit any of its employees to work in its service more than ten hours per day or more than sixty hours per week, all of which sixty hours' work is to be performed in six days of such week, and that no employee having worked upon six days shall be required or permitted to resume work until he has been a complete day of twenty-four consecutive hours off work, which twenty-four consecutive hours shall be computed from 5.30 o'clock a.m. of such day.

Provided, however, that work rendered necessary by exceptional accidents, unusual storms or civil commotions, or for operating the cars during the time of the Industrial Exhibition not exceeding 12 days in each year, requiring the employment of men for extra work, certified by the City Engineer, or by the County Judge, as hereinafter provided, to have been necessary in the reasonable operation of the railway, shall not be held to be a violation of this section, nor shall the employment of the Superinten-

dent and one Assistant, the Chief Engineer and one Assistant, the Electrician and one Assistant, and the Roadmasters (not to exceed six in number), while engaged in the necessary work of the Company for parts of seven days of the week be held to be a violation hereof; Provided, however, that either party hereto may within two weeks after the decision of the City Engineer in any matter provided for in this section, communicated to both parties hereto, appeal from such decision to the County Judge, whose decision shall be final and binding upon both parties hereto, and in the event of no appeal being taken within the time aforesaid, the decision of the said City Engineer shall be final and binding upon both parties hereto.

(1) The word "week" in this agreement means any seven consecutive days, whether the same begin with Sunday or any other day of the week.

(2) And the Company, for itself, its successors and assigns, covenants with the said Corporation, that if at any time any Judge of the County Court of the County of York, upon a summary application to him by the said Corporation, of which two days' notice in writing shall be given to the Company shall adjudge and report to the Council of the said Corporation that there has been a substantial breach of the said covenant, promise and agreement which could reasonably have been avoided, then the Council of the said Corporation, within three months after the receipt of the said report (or after the final decision of the said question in the event of an appeal), but not afterwards, may pass a resolution annulling any right acquired by the said Company under and by virtue of the said vote or of this agreement to run street cars on Sunday, and upon the passing of such resolution, any such right which may be so acquired by the said company shall by virtue thereof cease and determine. Provided, however, that in lieu of passing such resolution to annul the rights of the Company to run Sunday cars, the said Council may, for each and every such breach, impose upon the said Company a penalty of \$500, or such lesser sum (not less than \$100) as the said Council may deem reasonable.

(3) And the Company for itself, its successors and assigns, doth covenant, promise and agree with the Corporation that it will not after the passing of such resolution attempt to exercise any right to run street cars on Sunday which may be acquired by virtue of the said vote, or of this agreement, and the running of street cars on Sunday by virtue of such authority may, after the passing of such resolution, be restrained by the order and injunction of any Court of competent jurisdiction, or in the event of the said Council imposing a penalty as hereinbefore is provided, the Company will pay the amount thereof within seven days after being notified of the action of the Council, and if not paid, the said Corporation may recover the same with costs of action in any Court having jurisdiction to the amount of said penalty.

(4) Upon the hearing of such application, the said County Court Judge may summon witnesses, take evidence upon oath, order production of books and papers, and exercise all the other powers mentioned in Clause Forty-three of the conditions of sale forming part of the existing agreement between the Company and the Corporation and also the powers of an arbitrator under the Acts respecting arbitrations and references, and he shall report to the Council the evidence and his decision thereon and the grounds thereof, and either the Corporation or the Company may, within one month after the date of said report, appeal from the decision of the said Judge to the Court of Appeal for Ontario, and the decision of the Court of Appeal shall be final, and the said parties hereto consent to the said County Court Judge and the said Court of Appeal having jurisdiction to hear, try and determine the matters hereinbefore agreed to be submitted to them respectively.

(5) Provided always, and it is hereby declared and agreed by and between the said parties, that these presents are predicated upon the vote of a majority of the citizens being in favor of a Sunday car service, and of a Sunday car service being established in pursuance thereof, and that in the event of any right which may be acquired by the Company under and by virtue of the said vote being annulled by resolution of the Council, as hereinbefore mentioned, the original position and rights of the citizens and of the Company and the Corporation under the said existing agreement and under the Act of Incorporation of the Company and subsequent legislation in relation to the question of a Sunday car service shall be restored and shall not be affected or prejudiced by reason of the premises

13. Any ticket issued by the Company under the said agreement of the 1st of September, 1891, except the ones sold at the rate of eight for twenty-five cents, may be used and shall be good at any time on Sunday, but a special ticket shall be issued and sold by all conductors and at the offices of the Company on Sunday, at the rate of seven of them for twenty-five cents, and such tickets may be used upon all cars running upon Sundays, and also upon other days within the hours or times on which the class of tickets sold at the rate of eight for twenty-five cents may be used.

14. In the event of a majority of the citizens voting in favor of a Sunday car service, and the By-law embodying this agreement having passed the Council of the said Corporation, the said Company covenants, promises and agrees to and with the said Corporation that the said Company will upon each and every Sunday thereafter while this agreement remains in force provide a service of cars upon each line of railway operated, or that may hereafter be operated, by the said Company in the City of Toronto, during the hours and upon the terms and conditions set out in the said agreement of the first of September, 1891, except as varied by this agreement; and that

the said agreement of 1891, with the amendments or alterations provided by this agreement, shall apply to the operation of cars upon Sundays.

15. This agreement is provisional, and shall not have any force or effect until the By-law embodying the provisions thereof has been assented to by a vote of the citizens taken thereon, as provided for in the Act passed by the Legislature of the Province of Ontario in the fifty-seventh year of Her Majesty's reign, and chaptered 93.

16. In the event of any Court of competent jurisdiction in the Province of Ontario holding that the said Corporation had not power to enter into this agreement, or to authorize the running of cars upon Sunday, or should any cause or causes arise beyond the jurisdiction of this Council which may prevent the running of street cars on Sundays, then and in any or either of such events, the said company shall not have any claim, and the said Company agrees that it will not make any claim against the said Corporation for entering into this agreement, or for the privilege thereby granted being put an end to by such decision or cause.

17. In the event of a By-law being passed as herein provided, the parties hereto agree to apply to the next session of the Legislature of the Province of Ontario to validate and confirm this agreement, and to authorize the said Corporation to impose a penalty as herein provided for, and to collect the same by action if not paid by the said Company, and to provide that any penalty imposed by or under the provisions of this agreement, shall not be relieved against by any Court or Judge; also to confer upon the County Court Judge, and Court of Appeal respectively, jurisdiction to hear and determine the matters herein provided to be determined by them, and each party will assist in obtaining such legislation.

In witness whereof the parties hereto have hereunto set their Corporate Seals under the hands of their proper officers.

SIGNED, SEALED AND DELIVERED
in the presence of :

CHARLES CURTIS,
As to the Corporation.

WILLIAM LAIDLAW,
As to Execution by the Company.

ROBERT J. FLEMING, : : : : :
Mayor. : SEAL : : : : :

R. T. COADY,
Treasurer.

WM. MACKENZIE,
President.

J. C. GRACE, : : : : :
Secretary-Treasurer. : SEAL : : : : :