

providing all proper facilities for free passage while the works were in progress.

No notice whatever was taken of this communication, and so on the 10th of September the works were commenced, and then the proceedings took place which led to this litigation.

Their lordships are unable to find any justification in law for the action of the appellants. The language of the legislature is too plain to leave room for argument. The appellants indeed contend that it is hardly possible to conceive that the legislature could have meant to confer such extraordinary powers upon a mere trading company as to authorize them at their will and pleasure to interfere with public streets, the care of which is committed to the municipality, and they suggest that section 5 of the Act of 1892 may be construed as defining the objects of the company, and enabling them to lay down their wires provided they first obtain the consent of the city. It is true that the section does not in express terms authorize the company to open streets, but that power is plainly involved in the authority given to them to lay their wires underground, and it is impossible to read section 25 of the Act of 1892 without seeing that section 5 confers upon the company powers and privileges which but for section 25 they would have been at liberty to exercise without interference from any quarter.

Then it was argued that the company were bound to give the municipality reasonable time for considering their plans, and it was urged that a period of 10 days was much too short a notice for a great municipal body which must necessarily proceed in a somewhat leisurely fashion. Regular councils it was said were only held once a month, and although a special council could be summoned at two days' notice the respondents could hardly expect the municipal council of the city of Montreal to depart from their ordinary course for their convenience. There is however nothing to be found in the Act justifying the position taken up by the municipality, and considering that as early as May the company gave formal notice that they intended to exercise their powers, although certainly the notice was not one which the municipal council were bound to recognize, it is plain that provision might easily have been made for the emergency even if the council could not bring themselves to summon a special meeting for such an occasion.

When it is urged on behalf of the municipality that the legislature would not intentionally have put upon them the indignity