

if it existed, being as effectual against the contract when signed as before. (2) The alleged monopoly was not such in the sense of the law, consumers having the option to take gas or not.

Semble, that an action of this nature should be instituted in the name of the Attorney-General.

JOHNSON, J. The plaintiff in this case wants a provisional injunction to prevent the corporation and its officers from making or completing a contract with the *mis en cause*. The petition and the action are identical in terms, except the conclusions which, in the petition are restricted to a temporary order during the suit, and in the declaration ask for a permanent injunction to restrain the defendant from making the contract with the Gas Company. So the shortest way to deal with the matter will be to refer at once to the petition itself, which sets out at length both the contract itself, and the petitioner's pretensions. The material parts are:

1st. That by a resolution of the Council of the City of Montreal, passed at a Session of the said Council regularly and legally held on the 27th of December, 1883, the said Council acting for and representing the said Corporation, the defendant herein, it was, among other things, resolved that the said Corporation defendant do enter into a certain agreement or contract with the New City Gas Company of Montreal (to wit, a certain Corporation formerly known as the New City Gas Company of Montreal, the name whereof, by Statute of the Province of Quebec, 42 & 43 Vict., c. 81, was changed to the Montreal Gas Company), and which agreement and contract is in the following words, to wit, namely: "Agreement between 'The City of Montreal' and 'The New City Gas Company of Montreal' for lighting the City with gas.

The contract itself is then set out as follows:—

"On this — day of the month — in the year of our Lord 1884.

"Before Mr. François Joseph Durand, the undersigned notary public for the Province of Quebec, one of the Provinces of the Dominion of Canada, residing in the City

of Montreal, in the District of Montreal, in the said Province, appeared, 'The City of Montreal,' a body politic, duly incorporated by legislative enactments, having their office or place of business at the City Hall, in the East Ward of the said City of Montreal, herein represented and acting by the Mayor of the said City, the Honorable Jean Louis Beaudry, one of the Legislative Councillors of the said Province, residing in the said City of Montreal, parties hereto of the first part, and the 'New City Gas Company of Montreal,' a body duly incorporated in virtue of legislative enactments, having their office and principal place of business in the said City of Montreal, herein represented and acting by Jesse Joseph, of the said City of Montreal, Esquire, the president of the said Company, and by — of the same place, both hereto present in their said quality, and as such duly authorized for the purposes hereof, under and by virtue of a resolution of the Directors of the said Company adopted at a meeting held on the —, a copy of which resolution shall remain hereunto annexed after having been signed by the said notary *ne varietur*, parties hereto of the second part, which said parties hereto have made and entered into the following agreement between themselves, to wit: 'The New City Gas Company of Montreal' do hereby bind and oblige themselves to supply and furnish all the gas consumers within the limits of the said city of Montreal with gas, which shall be 'coal gas,' manufactured solely from bituminous coal, and of an illuminative power of not less than sixteen candles, at a price which shall not exceed the price of one dollar and fifty cents net per each thousand cubic feet generally furnished and supplied by the said company from the first of May, 1885, to the first day of May, 1890, and of \$1.40 for the next five years, that is to say, from the first day of May, 1890, to the first day of May, 1895, provided, however, that no extraordinary circumstances should arise during the existence of the present contract or agreement, such as a war, the destruction of the works, a general strike, or any other event constituting a *force majeure* (*vis major*).