

The defendants appealed to a Divisional Court, upon the grounds: (1) that they had the power—irrespective of any permission or act of the plaintiffs—to place and maintain their poles and wires as they had done; and (2) that the plaintiffs were taking the present proceedings *mala fide* and in order to compel the payment of an extortionate rental.

The appeal was heard by MULOCK, C.J.Ex.D., CLUTE and RIDDELL, JJ.

H. D. Gamble, K.C., and F. L. Smiley, for the defendants.

R. McKay, for the plaintiffs.

The judgment of the Court was delivered by RIDDELL, J., who said that the first contention was based upon the proposition that the defendants' incorporation was under R. S. O. 1897 ch. 200, and that conclusion was not supportable. That chapter was intended to provide for the case of persons desiring to form a company for supplying steam, etc., or electricity, etc., for the purpose of light, heat, or power in any municipality—not a company having such broad and general powers as were contained in the charter of this company. (The company were incorporated on the 28th November, 1906, under the Ontario Companies Act, "to acquire and carry on the electric light and power plant at present operated at the said town of New Liskeard . . . by Kalil Farah, to acquire by purchase the water power owned by the said Kalil Farah in the township of Dymond, and to acquire by purchase, lease, or otherwise, and to maintain, utilise, or develop water powers or other powers for the production of electricity, pneumatic, hydraulic, or other power or force for any purpose for which electricity or power can or may be used," and with many other such objects of a very general and non-local character.) That this is so is made perfectly clear by the language of the statute itself, e.g., it is "the municipality" which we find mentioned from time to time—see sec. 3. The legislation comes ultimately from 42 Vict. ch. 24 and 45 Vict. ch. 19. The company then are in the same position as any other company for commercial purposes. They have no right upon the streets or highways without having received legislative sanction, either directly, or indirectly through the action of properly authorised municipal bodies, and that these defendants have not received. . . ."

We have no concern with the motives of the plaintiffs; when they come to Court, they are entitled to their legal rights, no matter what may be the motive which induced them to assert such rights. . . .