

means, through, under, and along the streets, highways, and public places" of the city. . . .

[Reference to the incorporation of the respondent company by letters patent of the 20th September, 1883, under the authority of the Ontario Joint Stock Companies Letters Patent Act, R.S.O. 1877 ch. 150; to the Act respecting Companies for Supplying Electricity for the Purposes of Light, Heat, and Power, 45 Vict. ch. 19, secs. 2, 3; the Act respecting Joint Stock Companies for Supplying Gas and Water, R.S.O. 1877 ch. 157, sec. 54.]

The first question to be considered is the effect of the qualifying words of sec. 2 of 45 Vict. ch. 19, as to the use of the "streets, highways, and public places." That the right to conduct electricity by any means through, under, and along the streets, highways, and public places, is not an absolute right, is clear; for it is to be exercised "only upon and subject to such agreement in respect thereof as shall be made between the company and the said municipalities respectively, and subject to any by-law or by-laws of the councils of the said municipalities passed in pursuance thereof." . . .

[Reference to *Paynter v. James* (1867), L.R. 2 C.P. 348, 354; *Regina v. Humphery* (1839), 10 A. & E. 335, 370; *Regina v. Arkwright* (1848), 12 Q.B. 960, 970, 971.]

As used in sec. 2, the word "upon," in my opinion, plainly means that what the section prescribes is a condition precedent to the exercise by the company of the right to conduct electricity through, under, and along the streets, highways, and public places of the municipality. . . .

[Reference to *Regina v. Justices of Lancashire* (1857), 8 E. & B. 563.]

That the intention of the Legislature was to use the word "upon" in the sense of "not unless" is emphasised by the addition of the word "only." . . .

The condition which is to be complied with . . . is not, in terms at all events, that the consent of the municipal authorities shall be obtained, but it is that the company's powers to use the streets . . . of the municipalities shall be exercised "only upon and subject to such agreement . . . as shall be made between the company and the said municipalities respectively and under and subject. . . ."

What the section means . . . is, I think, that a company shall not have the right to conduct electricity through, under, and along the streets . . . of the municipality until it shall have entered into an agreement with the corporation of the muni-