

submit their scheme of works to the Commissioner of Public Works of the North-West Territories, and apply to him for permission to construct and operate the works across road allowances and surveyed public highways which might be affected by them; by s. 16, that his approval of the scheme and permission for construction across the road allowances and highways should be obtained previous to the authorization of the works by the Minister of the Interior, and by s. 37, that, during, construction and operation of the works, they should "keep open for safe and convenient travel all public highways theretofore travelled as such, when they are crossed by such works," and construct and maintain bridges over such works. The Commissioner had the control of all matters affecting changes in or obstructions to road allowances and public highways vested in the local government, "including the crossing of such allowances or public highways by irrigation ditches, canals or other works." On the approval of the scheme of works in question, the Commissioner granted permission for their construction and maintenance across the road allowances and public highways shewn in the memorial of the appellants subject to "the provisions of s. 37 of the said North-West Irrigation Act, and without any special conditions imposed.

*Held*, reversing the judgment appealed from (3 Alta. L.R. 70), the CHIEF JUSTICE and IDINGTON, J., dissenting, that the absolute statutory duty imposed upon the appellant company by s. 37 of the North-West Irrigation Act, 1898, related solely to public highways which were publicly travelled as such previous to the construction of the irrigation works by the company; that, as no further obligation was imposed at the time permission for the construction of the works was granted, by the officer in whom the power of specifying further conditions was vested the company was under no obligation to erect bridges across their works at points where they crossed road allowances or public highways which have become publicly travelled as such since the construction of the works.

Per DAVIES and DUFF, J.—In the construction of modern statutes conferring compulsory powers, including powers to interrupt the exercise of public rights, questions as to what conditions, obligations or liabilities are attached to or arise out of the existence of such powers are primarily questions of the meaning of the language used or of the proper inferences respecting the legislative intention touching such conditions, obligations