

failure to achieve its purpose. It was therefore, not surprising that a pioneer company such as that should have been given large powers. But while *prima facie* such powers were given, their Lordships collected from other legislation of the period that the Legislature was fully aware of the difficulties of giving such powers without restriction, and that the question of safeguards were present to the minds of the draughtsmen. Companies which had power to bring electrical power and wires into Canadian cities might prove a serious danger to the public.

The evidence in the present case shewed the peril to the safety and the lives and property of the inhabitants of a populous district, which a high voltage such as that of a power company might occasion. The Parliament of Canada not unnaturally anxious to avoid dangers of that kind accordingly passed general statutes conferring upon municipal authorities large powers of control. Section 90 of the Railway Act, 1888, was amended by the Railway Act, 1899, which added to it a sub-section illustrative of that kind of control. The new sub-section enacted that when any company had power by any Act of Parliament of Canada to construct and maintain lines of telegraph or telephone, or for the conveyance of light, heat, power, or electricity, such company might, with the consent of the Municipal Council or other authority having jurisdiction over any highway, square, or other public place, enter thereon for the purpose of exercising such power, and break up and open any highway, square, or other public place. If the powers conferred by that section displaced the less restricted powers of entering without any consent conferred by the act of incorporation, the appellants were in the wrong. Their Lordships had, therefore, to determine this question. They had to bear in mind that a Court of Justice was not entitled to speculate as to which of two conflicting policies was intended to prevail, but must confine itself to the construction of the language of the relevant statutes read as a whole.

His Lordship referred to the General Railway Act, of 1906, which repealed and re-enacted with some modifications, the previous railway Acts, in order to see what light its language threw on the question, whether the powers originally conferred in 1902, by the Act of Incorporation still stood unrestricted. He said the draughtsman used language which expressed an intention to save all such powers.