

itself or its servants or agents, and in respect thereof the railway company needs no protection by an order of the Board.

Can. Pac. and Can. Northern Ry. Cos. v. Kaministiquia Power Co., 6 Can. Ry. Cas. 160.

ELECTRIC RAILWAY—POWER LINE—PROTECTION.

A company incorporated by provincial statute to construct an electric railway through the town of Essex built its line on a street under the authority of a municipal by-law which provided that its poles and wires should not interfere with any then existing poles or wires of any other person or company. The railway works were, by Dominion Act, declared to be for the general advantage of Canada. The company's wires and poles when constructed interfered with existing telegraph, telephone and electric light poles and wires (the latter belonging to one N. erected under an agreement with the town) and created danger by the escape of electrical current therefrom:—Held, that if the railway and power line were constructed before the passing of the Dominion Act no order was necessary to authorize their subsequent maintenance and use, but if not, then leave was required under ss. 235, 237. Quere, if part only of the work was done before the Act and part afterward. Assuming that the work was lawfully done before the passing of the Dominion Act the Board has power under s. 238 to require the company to execute such works or take such measures as appeared to the Board best adapted to remove or diminish the danger. An agreement having been made with the approval of the Board for the use by N. of the company's poles for carrying his wires, order accordingly, the company being ordered to pay the costs of the proceedings.

Naylor v. Windsor, Essex & Lake Shore Rapid Ry. Co., 8 Can. Ry. Cas. 14.

CONSTRUCTION OF TELEPHONE LINES—INJURY TO TREES—RIGHTS OF PRIVATE PROPERTY OWNERS.

That the ownership of lands adjoining a highway extends *ad medium filum viæ* is a presumption of law only which may be rebutted, but the presumption will arise though the lands are described in a conveyance as bounded by or on the highway. Gwynne, J., *contra*. In construing an Act of Parliament, the title may be referred to in order to ascertain the intention of the Legislature. The Act of the Nova Scotia Legislature, 50 Vict. c. 23, vesting the title to highways and the lands over which the same pass in the Crown for a public highway, does not apply to the city of Halifax. The charter of the Nova Scotia Telephone Co. authorizing the construction and working of lines of telephone along the sides of, and across and under, any public highway or street of the city of Halifax, provided that in working such lines the company should not cut down nor mutilate any trees:—Held, Taschereau and Gwynne, J.J., dissenting, that the owner of private property in the city could maintain an action for damages against the company for injuring ornamental shade trees on the street in front of his property while constructing or working the telephone line, there being nothing in the evidence to rebut the presumption of ownership *ad medium*, or to shew that the street had been laid out under a statute of the province or dedicated to the public before the passing of any expropriation Act. 23 N.S.R. 509, reversed.

O'Connor v. Nova Scotia Telephone Co., 22 Can. S.C.R. 276.

[Referred to in Washington v. G.T. Ry. Co., 28 Can. S.C.R. 188.]

TELEPHONE POLE—INJURY TO PERSON RIDING ON HIGHWAY.

A person driving on a public highway who sustains injury to his person