

ant Commission has the right to string wires upon such poles, it has unlawfully, wrongfully, and unreasonably displaced, cut, and injured the plaintiff company's wires in different parts of the city.

I am of the opinion that the contention of the plaintiff company as to the construction of the last sentence of paragraph 7 is the correct one. I find also, upon the evidence, that the defendant Commission has unreasonably and wrongfully taken down, removed, and otherwise disturbed or interfered with the plaintiff company's appliances.

It was contended on the part of the defendant Commission that, under the said paragraph 7, the only remedy that the plaintiff company would have would be by arbitration. That would, no doubt, be so if the city council had by resolution requested the plaintiff company to grant to the defendant Commission the privilege of stringing wires upon the poles erected by and belonging to the plaintiff company; but the only resolution passed by the city council is the one which I have above referred to.

My judgment is therefore: (1) that the by-law aforesaid confers no right upon the defendant Commission to use the plaintiff company's poles or to string wires thereon for the purpose of distributing and supplying electric current to customers other than the city corporation; (2) that there shall be a reference to the Master to ascertain the damages the plaintiff company has sustained; (3) that the plaintiff company is entitled to an injunction restraining the defendant Commission from further injuring or interfering with the plaintiff company's poles, plant, and system; and (4) that the defendant Commission shall pay the plaintiff company's costs of this action.

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MIDDLETON, J., IN CHAMBERS.

JANUARY 20TH, 1915.

SCHUCH v. MELDRUM.

*Practice—Late Delivery of Statement of Claim in Order to Avoid Early Trial—Irregularity—Motion to Set aside Statement of Claim and for Dismissal of Action—Refusal—Discretion of Master—Appeal—Costs.*

Appeal by the defendants from an order of the Master in Chambers, dated the 14th January, 1915, refusing the defend-