

never accepted or intimated their willingness to accept the discontinuance. The argument is somewhat audacious, seeing that the discontinuance has been all along impeached upon the ground that it was the result of a corrupt agreement between Attorney-General Turcotte and the company to put an end to the action. That they were agreed as to the discontinuance, on the terms which it specifies, has never been disputed; but corruption was denied, and, although proof was allowed and led upon the point, there is not a tittle of evidence to prove it. And, in both Courts below, unsuccessfully in the first, but successfully in the Court of Queen's Bench, the company have pleaded that the discontinuance was valid, and terminated the suit.

The greater part of the argument was directed to the merits of the cause, and, in particular, to the question whether Blache Lane was a public or a private street. Their lordships do not think it necessary to determine whether the decision of Mr. Justice Mathieu or the decision of the Court of Queen's Bench, upon that point, ought to be followed. If the lane was private property, there is admittedly an end of the Attorney-General's case. On the other hand, if the lane was a public street, their lordships are of opinion that his case equally fails, because the City Council had power to authorise, and did authorise, the company to close it.

The plan which has already been referred to was submitted by the company to the City Council, for the purpose of informing that body of the extent to which, and the manner in which the construction of their railway would affect the streets of Montreal, and of obtaining their consent to the works indicated on the plan. And it is not disputed that the Council, in whom the public streets of the City are vested by Statute, was the only authority competent to deal with the application. The evidence clearly proves, and the plan, which speaks for itself, also shows, that the Council were distinctly apprised that the design of the company was, not only to close the entrance to Blache Lane from Mountain Street, but to occupy and use the lane for the purpose of constructing their railway track. The Council gave their express assent to the carrying out of that design, so that the only question left is, whether they had a legal right to do so. The answer to be given to that question depends upon the construction of Section 12 of the General Railway Act, cap. 109 of the Revised Statutes of Canada, 1888.