Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Montreal Gas Company v. *Cadieux, from the Supreme Court, Canada; delivered 28th July* 1899.

Present at the Hearing:

LORD WATSON.
LORD HOBHOUSE.
LORD MACNAGHTEN.
SIR EDWARD FRY.
SIR HENRY STRONG.

[*Delivered by Sir Henry Strong.*]

The Appellants are a Company formed for the purpose of making and supplying gas in Montreal. They were incorporated in 1847 by a Statute of the Province of Canada (10 & 11 Vict. chap. 79) under the name of "The New "City Gas Company of Montreal." Their name was changed in 1879 to "The Montreal Gas "Company" by a Statute of Quebec 41 Vict. chap. 81.

The Respondent was a customer of the Montreal Gas Company. He had two sets of premises in Montreal, 1125, Notre Dame Street, and 282 St. Charles Borromée Street where he resided. He took gas from the Company for both. The question is whether he is entitled to require the Company to supply gas for the one set of premises while he neglects to pay his gas bill for the other.

The answer to the question must depend upon the statutory powers of the Company. Originally

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the Company had no special power bearing on the question. But in 1849 their powers were extended by a Statute of the Province of Canada (12 Vict. chap. 183) so as to enable them to deal with defaulting customers.

Section 20 of the Act of 1849 which was evidently borrowed from the Gasworks Clauses Act 1847 of the United Kingdom is so far as material in the following terms:—"If any person ". . . supplied with gas by the Company " shall neglect to pay any rate rent or charge " due to the . . . Company at any of the " times fixed for the payment thereof it shall be " lawful for the Company . . . on giving " 24 hours' previous notice to stop the gas from " entering the premises service pipes or lamps " of any such person . . . by cutting off the " said service pipe or pipes or by such other means " as the Company shall think fit."

Then follows a power for the Company to recover the amount due to them at the time " notwithstanding any contract to furnish for " a longer time " and also a power within certain hours of the day to enter the premises and remove their own property on giving 24 hours' previous notice " to the occupier or person in " charge."

The Respondent was not altogether a desirable customer. He was tardy and irregular in his payments. Between February 1890 and December 1896 the Company had to send him 15 notices threatening to cut off his supply before the accounts were paid and on five occasions they had to cut off the supply for non-payment.

On the 19th of September 1895 the Company were compelled to cut off the gas at No. 1125 Notre Dame Street for non-payment of the Bill for gas supplied to that house. This measure had no effect in producing payment. The Company then gave the Respondent notice that

unless their bill was paid they would cut off the gas at his residence No. 282 St. Charles Borromée Street also, and at last after repeated notices to that effect the Company carried their threats into execution and cut off the gas at No. 282 St. Charles Borromée Street as well as at No. 1125 Notre Dame Street.

Instead of paying what he owed to the Gas Company the Respondent brought this action to compel the Company to continue the supply of gas at his residence. The Superior Court decided in his favour. The Court of Queen's Bench unanimously reversed that decision. The Supreme Court consisting of Gwynne Sedgwick King and Girouard JJ., Taschereau J. dissenting, reversed the decision of the Queen's Bench. From the judgment of the Supreme Court this Appeal has been brought by special leave.

The case appears to their Lordships to be too clear for argument. The only question is a question of fact. Is the Respondent, in the words of the Act, a person supplied with gas by the Company who has neglected to pay a rate rent or charge due to the Company at the time fixed for the payment thereof? It cannot be disputed that he is. The occasion therefore has arisen which authorises the Company to stop the gas from entering his service pipes. There is nothing in the Act to limit the right of the Company to the service pipes of the defaulter in a particular building or connected with a particular meter in respect of which the default has been committed. There is nothing in the Act to throw the rate rent or charge for gas upon the premises for which the supply is furnished or to make it payable out of the premises of the defaulter. The supply is to the consumer and the default is the consumer's default. His liability to the Company is a liability for the whole of the debt which he owes them at the time.

The argument of Girouard J. who delivered the judgment of the Supreme Court seems to be this:—The power given to the Company of stopping the supply of gas to a customer who neglects to pay his gas bill is an "exhorbitant" power. The provision must therefore be construed strictly. The only reasonable way of construing it is to limit the power to the particular building in respect of which the default has been committed, any other construction would lead to unreasonable consequences. If a corporation for instance took a supply of gas for their streets and also for their public buildings it would be unreasonable to cut off the supply for the streets merely because the Corporation neglected to pay the gas bill for their buildings.

Their Lordships are unable to see anything unreasonable in the particular instance given or anything unreasonable in a provision authorising a gas company to cease supplying a customer who will not pay his gas bills: but the real answer to the argument of the learned Judge is that it is not for the Court to pronounce an opinion upon the policy of the Legislature. Their only duty is to give effect to the language of the Legislature construing it fairly. It seems impossible to find the limitation in question in the language of the Statute without introducing some proviso or some qualifying words which are not there.

In the result therefore their Lordships will humbly advise Her Majesty that the Appeal ought to allowed and that the Respondent ought to pay the costs in the Courts in Canada.

There will be no costs of the Appeal to Her Majesty.