

FALCONBRIDGE, C.J.K.B.

JANUARY 19TH, 1915.

LINCOLN ELECTRIC LIGHT AND POWER CO. OF ST.
CATHARINES LIMITED v. HYDRO-ELECTRIC COM-
MISSION OF ST. CATHARINES.

Municipal Corporation—Distribution and Supply of Electrical Power—Public Utilities Act, R.S.O. 1914 ch. 204, secs. 34, 35, 36—Management of Works and Operations Entrusted to Commission—Company Authorised to Supply Electric Power—Erection of Poles and Wires in Streets of Municipality—By-law of Municipal Corporation Authorising Use of Company's Poles for Stringing Wires of Corporation—Restriction to Supply of Power and Light for Use of Corporation—Interference with Company's Appliances—Declaration—Injunction—Damages.

Action for a declaration that a certain by-law of the Municipal Council of the City of St. Catharines has conferred no right upon the defendant Commission to use the plaintiff company's poles and to string wires thereon, etc., and for an injunction and damages.

The action was tried without a jury at St. Catharines.

D. L. McCarthy, K.C., and H. H. Collier, K.C., for the plaintiff company.

E. D. Armour, K.C., and C. H. Connor, for the defendant Commission.

FALCONBRIDGE, C.J.K.B.:—The plaintiff is a company incorporated under the Ontario Companies Act and authorised to carry on the business of generation, distribution, and sale of electric power.

The defendant is a Commission established under the authority of secs. 34, 35, and 36 of the Public Utilities Act, R.S.O. 1914 ch. 204, controlling and managing the operation, maintenance, and works undertaken by the Corporation of the City of St. Catharines for the distribution and supply of electrical power or energy furnished and supplied by the Hydro-Electric Commission of the Province of Ontario.

The plaintiff company has been carrying on business since the passage of by-law number 1753 of the City of St. Catharines on the 26th September, 1905, and has, under the authority