

Prendergast, J.]

[Feb. 20.]

## WINNIPEG ELECTRIC RY. CO. v. WINNIPEG.

*Municipality—By-law—Winnipeg charter—Regulations as to poles and wires in the streets claimed to be ultra vires, unreasonable and oppressive—Remedy when by-law conflicts with charter powers of incorporated company.*

As the city of Winnipeg, by ss. 714, 720, 721 and 722 of its charter, has possession and control of its streets and lanes and the responsibility of keeping them in proper repair and free from obstructions that might be dangerous and, by sub-s. 123 of s. 703, is authorized to pass by-laws for regulating the erection and maintenance within the city of telegraph or telephone poles or wires and electric light and power poles and wires and to order such poles to be removed and such wires to be placed underground or otherwise, a by-law of the city providing that no person, firm or corporation shall erect or maintain any electric pole or wire without first making an application (in a form prescribed) for a permit and until such permit shall be granted; that every such permit shall be subject to revocation by the city at any time in the absence of an agreement to the contrary ratified by by-law; that there shall be no claim for compensation of any kind by any person, firm or corporation with respect to any rights or privileges alleged to have been acquired under such permit; that any right, leave or license given by such permit shall cease and determine upon such revocation; that upon the revocation of any such permit, the person, firm or corporation to whom it has been issued shall remove all poles and wires erected or maintained under its authority within fourteen days after notice, and authorizing and directing the proper officers of the city to cut down and remove any such poles or wires in the event of such person, firm or corporation refusing or neglecting to remove same after having been duly notified of the revocation of the permit covering the same, not being expressly made retroactive in any way, is neither ultra vires, unreasonable nor oppressive.

2. A provision in the by-law that the acceptance of the permit shall constitute an agreement to be bound by the conditions upon which it was issued, and by the terms of all present and future by-laws of the city relating thereto, does not place any company in a worse position than it would otherwise be, for all such by-laws would have to be ultra vires of the city and the company would be bound by them in any event.