

of buildings with the walls other than of brick, iron or stone, within defined areas, and for regulating the repairing or alteration of roofs or external walls of existing buildings within the said areas, so that the said buildings might be made more nearly fire-proof; also for regulating the size and strength of walls, beams, joists, rafters and roofs and their supports in all buildings to be erected or repaired or added to, and for compelling production of the plans of all buildings for inspection, and for enforcing the observance of such regulations.

*Held*, 1. The by-law in question, in so far as it required the submission of plans and specifications of proposed repairs to the Building Inspector, and the obtaining of his certificate before the commencement of repairs to any building, was ultra vires of the City Council, and that the conviction was bad.

2. Repairs to a building do not constitute a re-erection thereof, and it was ultra vires of the council to enact that, if the proposed repairs should cost 40 per cent. of the actual value of the building they should be considered a re-erection thereof and subject to the by-law, and that the rule for a prohibition should be made absolute to stop the prosecution on the charge of unlawful re-erection.

In 1899, subsequent to the enactment of the by-law in question, the Legislature passed certain amendments under which the city might have re-enacted the provisions of the by-law objected to, and under which the council amended other provisions of the same by-law.

*Held*, that this had not the effect of re-enacting the clauses objected to. The subsequently amended clauses did not affect in any way the operation of the clauses in question. The by-law is not such an enactment that all the parts of it are necessary to each other's working. Through it is limited to certain subjects, many large portions of it might be omitted without affecting the working of other portions.

Section 6 of the Winnipeg charter, passed in 1902, was cited as validating all then existing by-laws of the city.

*Held*, that the effect of that section was merely to provide that the then existing by-laws should stand as they stood before the passing of the charter. It could never have been in the contemplation of the Legislature to validate such a body of subordinate legislation as the City Council might have passed without first carefully examining all the by-laws to see that the limits of jurisdiction had not been exceeded. Such an intention could only be presumed from clear and distinct enactments open to no other construction.

Rules absolute without costs.

O'Connor, for defendant. Campbell, K.C., contra.