

and no notice of the defect had been brought home to the city in any way. It appeared that the plank had got loose by the breaking of the nails and not by reason of age or decay of the wood.

*Held*, that the defendants were not liable.

*Howell and H. V. Hudson*, for plaintiff. *T. A. Hunt and Auld*, for defendants.

Mathers, C.J.]

[July 8.

MANNING v. CITY OF WINNIPEG.

*Municipal corporation—Contract of, without by-law—Employment of counsel by city—Acceptance of services—Liability of corporation on executed contract—Winnipeg charter, ss. 472, 833.*

The council of the city of Winnipeg has authority, under section 833 of its charter, 1 & 2 Edw. VII. c. 77, to employ counsel to conduct an inquiry into any matter connected with the good government of the city or with the conduct of any part of its public business; but such employment is not one of the matters which, under s. 472 of the charter, may be dealt with otherwise than by by-law.

When such employment was by resolution only and there was no formal acceptance of the work by the council, although the plaintiff had completed it according to his instructions, it was

*Held*, that he could not recover in an action against the city for the amount of his bill of costs rendered *Arnold v. Poole*, 4 M. & G. 866; *Silsby v. Dunnville*, 8 A.R. 524; *Waterous v. Palmerston*, 21 S.C.R. 556; *Barrie School District v. Barrie*, 19 P.R. 33, and *Brown v. Lindsay*, 35 U.C.R. 509, followed. *Clark v. Cuskfield Union*, 21 L.J.Q.B. 349; *Haigh v. North Brierly*, E.B. & E. 873; *Lowford v. Billericay* (1903), 1 K.B. 772; *Bernardin v. Dufferin*, 19 S.C.R. 581, and *Emerson v. Wright*, 14 M.R. 636, distinguished.

*Hoskin, K.C.*, for plaintiff. *T. A. Hunt and Auld*, for defendants.

Mathers, C.J.]

[July 8.

DAVIS v. BARLOW.

*Parliamentary elections—Return of election made by returning officer—Jurisdiction of Court of King's Bench—Injunction—Breach of, by agent of defendant—Contempt of court—Manitoba Controverted Elections Act, R.S.M. 1902, c. 34.*

The Court of King's Bench has no jurisdiction to hear and