

should become null and void, and absolutely forfeited. The companies subsequently amalgamated with the assent of the defendants, who passed a new by-law in November, 1892, confirming a new contract, and confirming by-law 105 as amended. The amendment provided that plaintiffs should not charge more than 15 per cent. above the then advertized rates, during the term of 10 years. The defendants now to propose, under the said clause 10, to pass a by-law providing that the plaintiffs shall not be at liberty to charge, as a maximum, more than 20 per cent. below the present schedule rates, and, as they can now charge up to 15 per cent. above advertized rates, the difference to them would be 35 per cent.

I think the only reasonable construction to be put in section 10 is, that the defendants can amend the by-law as to the poles, their location and erection, and the installing the telephone and electric light system, having all that done under municipal direction, and in a way to protect and benefit citizens in the use of streets, and respecting provisions in sections preceding section 10, but not in reducing the prices so as to compel plaintiffs to furnish light at a loss, or to go out of business. Such a result was never contemplated, and the exercise of such power by a municipality would be unreasonable: *City of Toronto v. Toronto Street Railway Co.*, 15 A. R. 30, per BOYD, C., and per HAGARTY, C.J.O., at p. 36, and the case therein cited of *Elwood v. Bullock*, 6 Q. B. 401, in which Sir J. Coleridge says: "Whether a by-law is for the regulation of trade or for purposes of police, it must be reasonable and just." The object of defendants' by-law should be the good and welfare of citizens generally, and even if the attempted amendment to reduce rates were valid, the defendants, under the circumstances in evidence, should not be permitted to use that power in the supposed interest of one class of citizens against another. . . . To force plaintiffs to supply light at a loss is not in the public interest. . . . There is no evidence of actual malice on the part of individual members of the defendants' council, but it is a fair inference from what has taken place, that the council have in view the getting control of the electric light plant by pressure, rather than a desire to reduce rates for the public good. . . . As a by-law to remedy a private grievance will not stand, so a by-law under the circumstances of this case ought not to be permitted. It is not necessary, in the view I take of the case, for me to decide whether or not it is within the powers of defendants' council, having once amended by-law 105, to again amend, . . . but it may well be doubted, in the face of the amendments already made, whether they can do