

HON. MR. JUSTICE MIDDLETON.

FEBRUARY 17TH, 1914.

RE WOLFENDEN AND GRIMSBY.

5 O. W. N. 901.

Municipal Corporations—Bonus By-law—Industry Established Elsewhere in Ontario—Proposed Branch—Municipal Act 1913, sec. 396 (c)—Quashing of By-law.

MIDDLETON, J., *held*, that sec. 396 (c) of the Municipal Act 1913 (3-4 Geo. V. c. 43) forbids a municipality to grant a bonus to an industry established elsewhere in Ontario proposing to establish a branch in the municipality in question.

Markham v. Aurora, 3 O. L. R. 609, referred to.

Argued 16th February, 1914.

Motion to quash by-law 296 of Grimsby, being a bonus by-law to aid The Pelee Island Wine and Vineyards Company, Limited, a company which now has a plant at Pelee Island and a warehouse, etc., in Brantford.

D'Arcy Martin, K.C., for applicant.

A. Lynch-Staunton, K.C., for the town.

HON. MR. JUSTICE MIDDLETON:—Those who have heretofore grown grapes in the Pelee Island district are now growing tobacco, and the company now desires to establish a branch at Grimsby, near which place grapes are grown in abundance, and the intention is to remove part of the plant to that place.

Under the statute 3-4 Geo. V. ch. 43, sec. 396 (c), a bonus may not be granted "in respect of a business established elsewhere in Ontario."

Mr. Staunton argues that this only prevents a bonus being granted to aid an industry established in another municipality and has no application to a bonus in aid of a branch business to be established in the bonusing municipality.

The wording of the statute has been changed to some extent since the decision in *Markham v. Aurora*, 3 O. L. R. 609, but it serves to indicate that the legislature intended to prevent any municipality from granting any aid to an industry which is in fact established elsewhere. There is no exception made to the wide words of this prohibiting clause.

Mr. Staunton's argument is met by what is said by Mr. Justice Osler in answer to a somewhat similar argument based on the words of the old statute, p. 618.