

in the township hall, and for a declaration that providing funds therefor is ultra vires and illegal, and that a contract made by the defendant corporation with the defendant Dexter is illegal.

G. E. Buchanan, for the plaintiff.

H. E. Rose, K.C., for the defendants.

LENNOX, J.:—The defendant corporation is engaged in a business in which it has no right to engage. The defendant Dexter is the agent of the corporation for the purpose of enabling it to carry on a show business, and as a cloak to cover up the real nature of the corporate operations. The by-law and so-called lease, purporting to be made under it, are palpable shams for the purpose of evading the law. A perusal of these documents is sufficient to convince me of this, and it is put beyond argument by the evidence at the trial.

The plaintiff is a ratepayer of the municipality, and sues upon behalf of all other ratepayers as well as upon his own behalf. Loss to the municipality is quite a probable result of the business the defendant corporation is carrying on. The taxes and the revenue from the town hall are being imperilled, and the defendant Dexter and his daughter and others are engaged at wages, so far as they relate to the picture show, to the payment of which the defendant corporation cannot lawfully apply the revenues of the municipality. If the municipality emerges from the transaction without a scandal and serious loss, it will be attributable to good luck, if there is such a thing, or the honesty of Dexter, not to the good management or the proper discharge of its duties by the municipal council. In a sense the council may have acted in good faith, but with a manifest intention of evading the law. This is one side of the case—the starting-point.

The plaintiff is not only a ratepayer, interested in preventing an improper diversion of the municipal revenues, or the taking on of unlawful obligations, but he has a special and peculiar individual interest in this matter as well. He is engaged in the moving picture business, for which he has to pay taxes and license fees. He must submit to rivalry and lawful competition of course, but he is not bound, I think, to submit to the special handicap of a People's Theatre unlawfully carried on by the defendants, and special and captivating appeals such as: "*Citizens of Chapleau*, Patronise the *Town Hall Show*, and in doing this *Look after Your Own Interests*." This is *unlawful* and therefore unfair competition. In the circumstances of this case, I