

execute, and declaring valid, two agreements, one dated the 3rd June, 1918, and the other the 12th August, 1918, whereby, in consideration of mutual covenants, the plaintiff, as the owner of a parcel of land on the west side of a park of the defendants, bound himself to subdivide his land and restrict the erection of buildings upon it, in such a manner as to enhance the natural beauty of the park. The defendants bound themselves to lay down certain sidewalks, to extend their sewer system when installed so as to serve any houses erected on the plaintiff's property, to remove a fence, and to allow access from the park to the plaintiff's land. Other mutual obligations were expressed.

The by-law was acted upon by the mayor and clerk; both agreements were executed and delivered; and it was not suggested that the defendants exceeded their powers in making either contract.

In the following year, on the 7th July, the municipal council, then differently constituted, passed a by-law, No. 845, which, after reciting that the two agreements were entered into and made part of by-law 828, that nothing had been done under the agreements, that the ratepayers did not favour but opposed them, and that the council considered them detrimental to the best interests of the townspeople, purported to repeal by-law 828.

In this action the plaintiff asked that by-law 845 should be set aside and quashed, that an injunction be issued restraining the defendants from acting under it, and that by-law 828 be declared valid and binding on it.

By sec. 283 of the Municipal Act, the Court, upon application of a person interested, is empowered to quash a by-law for illegality.

Reference to *Connor v. Middagh* (1889), 16 A.R. 356, 368.

By-law 845 was not illegal, in the learned Judge's opinion: it purported merely to repeal a by-law which the plaintiff relied on as validly passed. The council has power, without acting illegally, to repeal a by-law which it has power to pass.

What was intended to be alleged by the plaintiff was, that by-law 845 was ineffective; and what he sought was in effect a declaration that in 1919 the council could not and did not derogate from the contracts made by the council, though differently constituted, in the previous year.

That a municipal council of one year is not bound by the contract of the same council in a previous year is a proposition which has no merit but that of novelty. A corporation is as fully bound by a contract which it has power to make as an individual: *Halsbury's Laws of England*, vol. 8, p. 379; and the corporation in 1919, though the council was differently composed, was the identical corporation which contracted with the plaintiff.

*Motion dismissed with costs.*