

city architect, being of opinion that the application ought to be considered by him with reference to the law, municipal and otherwise, as it was on the date of the application, granted a permit. After the building had progressed to some extent, an action was brought by the owner of an adjoining parcel of land, to restrain the erection of the building as being a violation of certain building restrictions in respect to lands upon Palmerston boulevard.

The action was tried before the Honourable Mr. Justice Teetzel, who found that the building did infringe the restrictions; and an injunction was granted restraining its erection unless the structure was so modified as to make it conform to the restrictions.

The applicant then prepared modified and amending plans, supposed to comply with the building restrictions. These plans were submitted to the city architect with a request for approval. This approval has been declined, and the present motion is the result. I am not now concerned with the question whether the plans conform to the restrictions, as that matter is not before me in any shape.

There is nothing, so far as I can see, in the Municipal Act, which authorises the passing of a by-law requiring the obtaining of a building permit. The Municipal Act, sec. 542, authorizes the passing of a by-law "for regulating the erection of buildings." As I understand the law, this would enable the council to lay down certain requirements to which buildings to be erected must conform; but I cannot see that it authorizes the granting of a permit.

Neither counsel desired to take this position. They asked me to deal with the motion upon the assumption of the validity of the building by-law.

This by-law, in the first place, provides by sec. 2, that the erection of any building must not be commenced until the owner obtains a permit from the city architect. Plans of the proposed building are to be deposited, and when the architect finds that they are in conformity with all civic requirements he shall officially stamp the plans and issue the permit. Sub-section 4 provides, *inter alia*, "If during the progress of the work it is desired to deviate in any essential manner from the terms of the application, drawings or specific notice of such intention to alter or deviate shall be given in writing to the inspector of buildings, and his written assent must first be obtained before such alteration or deviation may be made." It is con-