ing been passed by the council previous to the time required by law, the same should be now read a second and third time. In the minutes of the council the by-law referred to was mentioned as having been read a first time on October 20th, 1873, whereas the by-law in question was read a first time on Sept. 22nd, 1873. Moreover the by-law thus voted on by the council was said to come into operation and take effect on Dec. 30th, 1873, whereas, the one voted on by the electors was to take effect on Dec. 13th, 1873.

The work on the railway to which the bonus was to be given, began in August, 1872. In 1874 the contractors became insolvent, and from January, 1874, to February, 1881, no work was done, on which last date a new contract was made by the plaintiffs, under which the road was completed in September, 1882, and in Nov., 1882, a demand was made on the defendants, the City of Ottawa, for the debentures, and refused.

The proceedings for granting the bonus were taken under 36 Vict. c. 48, s. 471-474.

The plaintiffs now brought this action to enforce the by-law, and the delivery to them of the debentures.

Held, that the by-law was bad and not in conformity with the statutory provisions, for (1) it was claimed to have been passed on April 7th, 1874, while it purported to take effect on Dec. 30th, 1873, thus not complying with the requirements of sec. 248, sub-s. 1, that the by-law, if not for creating a debt for the purchase of public works, shall name a day in the financial year in which the same is passed, when the by-law shall take effect. (2) The by-law submitted to the electors was to come into force on December 13th, and if it was assumed that the council of 1874 intended to pass that by-law, and made the debentures payable on Dec. 29th, 1893, that was more than twenty years from the day of the by-law taking effect, whereas the statute, sec. 474, requires that the whole of the debt and the obligations to be issued therefor, shall be made payable in twenty years at furthest from the day in which the by-law takes effect. (3) *Quære*, also, whether sec. 236 of the statute does not require the by-law to be passed by the council submitting the same.

Held, also, that the fact that the by-law had not been moved against within a year was immaterial when, as in this case, the invalidity was apparent on the face.

McCarthy, Q.C., *O'Gara*, Q.C., and *Gormully* for the plaintiffs.

J. Bethune, Q.C., and *McTavish*, for the defendants.

Proudfoot J.] [January 12.

WALLACE v. ORANGEVILLE.

Injunction—By-law to take vote—Conduct of Plaintiff—Joinder of parties.

On a motion for an interim injunction to restrain the defendants from paying over the sum of $1,200 to one A. as the price of a site for a post office, it appeared that the Dominion Government had a sum of money in their estimates for the erection of a post office, on condition that the defendants would provide a site, that a by-law had been submitted to the ratepayers to decide by vote which of two sites (one belonging to A. and the other to the town) was to be selected, and that the plaintiff had taken an active interest in favour of the one belonging to the town. The defendants contended that plaintiff was thus incapacitated from making this application, as he knew the object of the by-law, and that A. and the members of the council should be made parties. The plaintiff denied that he was aware that the payment of the $1,200 was any part of the by-law, and asserted that the only point to be settled by the vote was the site, and that he thought the Government was to pay for it. The by-law made no mention of the payment of any sum.

Held, that the plaintiff was not precluded from making this application, and that *for the purposes of the motion* neither A. nor the members of the council were necessary parties, although they might not, if joined, have been considered improper parties. Interim injunction granted.

Meyers for plaintiff.

McCarthy, Q.C., and *Walsh* for defendants.
