

so in the public interest, which they represent, but, at the same time, the private interest of the recipient of the bonus is necessarily present, and is a feature which cannot be excluded. The council are bound not to grant a bonus unless they consider that the interest of the public requires them to do so, but the fact that in serving the interest of the public they are at the same time serving the interest of the grantee of the bonus, is not an objection to the by-law.

The Court found in the Waterous case that the interests of the public would not be furthered by the closing of the street, and the substitution of a longer and less convenient one; and that no one would be benefited but the applicants. If we could find here that the council were wrong in the conclusion to which we must assume they came, viz., that the public interest would be served by closing this 14 feet and conveying it to the Massey-Harris Company, then the by-law should not stand. But it appears that the council did not take action in passing the by-law without much consideration; two-thirds of the land owners upon the street supported the application, and it was further supported by a petition signed by some 1,100 residents of Toronto, all or most of whom are workmen at the works of the Massey-Harris Company.

If the council had acted hastily and without taking any measures to determine whether the public interest would be served by passing the by-law, and there was a strong preponderance of evidence the other way, it might have been possible for us to say that it should not stand.

The municipal council is the body to whose discretion has been committed the duty of deciding whether the granting of a bonus is or is not in the public interest; and if a bona fide decision is arrived at by the council, it should not, in my opinion, be disturbed by the Courts except under very special circumstances.

It is urged that the omission of any obligation on the part of the Massey-Harris Company to increase their works or employ additional men, or to give any other consideration for the grant of the piece of street, stamps the transaction as one which is in their interest and not in that of the public.

I do not so read the sections in question, for the council may under sub-sec. (a) grant money unconditionally by way of bonus; if they can grant money unconditionally for the promotion of manufactures, the absence of a condition in a grant of land can hardly be treated as a fatal objection. The evidence upon the present application shews distinctly that the land granted was intended to be immediately used by them in connection with additional works. The respondents have, therefore, in my opinion, failed to make out that the by-law was not passed in the public interest.