

MIDDLETON, J.:—The by-law is a bonus by-law to aid the Pelee Island Wine and Vineyards Company Limited, a company which now has a plant at Pelee Island and a warehouse, etc., in Brantford.

Those who have heretofore grown grapes in the Pelee Island district are now growing tobacco, and the company now desires to establish a branch at Grimsby, near which place grapes are grown in abundance, and the intention is to remove part of the plant to that place.

Under the Municipal Act, 3 & 4 Geo. V. ch. 43, sec. 396 (c), a bonus may not be granted "in respect of a business established elsewhere in Ontario."

Mr. Lynch-Staunton argues that this only prevents a bonus being granted to aid an industry established in another municipality, and has no application to a bonus in aid of a branch business to be established in the bonusing municipality.

The wording of the statute has been changed to some extent since the decision in *Re Village of Markham and Town of Aurora* (1902), 3 O.L.R. 609; but it serves to indicate that the Legislature intended to prevent any municipality from granting any aid to an industry which is in fact established elsewhere. There is no exception made to the wide words of this prohibiting clause.

Mr. Lynch-Staunton's argument is met by what is said by Mr. Justice Osler in answer to a somewhat similar argument based on the words of the old statute (3 O.L.R. at p. 618): "No municipality ever had authority to grant a bonus in aid of an industry to be established outside its own limits, and the Legislature never meant to enact anything so absurd as to forbid them to do so."

In this view, I do not need to consider any of the other formidable objections to this by-law—it must be quashed with costs.