

survivor: Williams on Personal Property, 13th ed., pp. 392-3; Payne v. Marshall, 18 O. R. 499.

Action dismissed with costs, including costs of injunction motion.

DECEMBER 5TH, 1902.

DIVISIONAL COURT.

HUNT v. TOWN OF PALMERSTON.

Municipal Corporations—By-law—Aid to Free Library—Necessity for Submission to Popular Vote — Special Rate — Construction of Statute.

Appeal by defendants the town corporation from order of MACMAHON, J., granting an injunction restraining them from levying by special rate \$650 in aid of a free library in the town, on the ground that sec. 18 of the Public Libraries Act required the by-law for this purpose to be submitted to a vote of the electors.

J. J. Drew, Guelph, for the appellants.

J. H. Tennant, for defendants the Palmerston Public Library Board.

J. Montgomery, for plaintiff.

BOYD, C.:—The by-law may be upheld under sec. 591 (4) of the Municipal Act, empowering municipalities to make grants in aid of public libraries. Section 18 of the Public Libraries Act first appears in 1895, while the power of municipalities to make grants to mechanics' institutes or free libraries dates back to 1866. Long established law should not be reduced by ambiguous legislation such as the section referred to, which may have its full and legitimate application by being applied to the raising of ways and means by by-laws under the requisitionary powers intrusted to particular free library boards under secs. 14 and 17 of the Act. Sections 14 and 18 are probably to be read together; so that "special rate" is defined to be the "special annual rate" which is to be levied to provide the amount estimated by a free library board as being required to meet the yearly expenses necessary for carrying the Act into effect. The broad distinction between that and the matter in hand is that in that case the library board can enforce its demands upon the municipal corporation, subject to a popular vote, whereas in this instance the question is purely one of bounty and grace on the part of the municipality. Appeal allowed.

MEREDITH, J., gave reasons in writing for coming to the same conclusion.