

quoted, "a lodging house." The proposed building, as now shewn by the plans and specifications and described in the affidavits, is a lodging house within the meaning of this definition. That it is called an hotel is immaterial, as an hotel, by the same definition, is also a lodging house. It is manifest, then, that by-law 6061 prohibited apartment and tenement houses as defined under this caption in the building by-law, only, and not those designated lodging houses in the same building by-law.

It was argued that you must adopt the unlimited description of the statute of 1912, but this contention is based on a misconception of the function of the statute. The statute is not intended to prohibit anything. It gives the power to prohibit, and limits its extent. Within that limit the council can act, short of that limit they may stop—as they did here. Beyond that limit they cannot go. To adopt the full measure of the statutory definition, or rather limitation, the council had only to repeal the definitions quoted; and, failing to do this, these definitions govern.

Is the situation altered by the new by-law? I cannot see that it is, and I have already indicated the reason, namely, that it re-enacts the former definition of a lodging house. A lodging house, as defined under the former by-law, was not prohibited by No. 6061. A lodging house under the new by-law is just what it was under the old, and is nowhere prohibited.

The wisdom or unwisdom, or the fairness or unfairness, of the powers conferred by the Legislature, or the exercise of these powers by the council, are not matters for me to deal with, but statutes, and a fortiori by-laws, purporting to control or take away rights ordinarily incident to ownership, quasi-expropriation without payment, confiscation as it is often called, must be construed strictly, and the meaning must not be left in doubt—they must be definite and certain to all intents.

On the other hand, having regard to the easy stages by which the applicant has developed his present proposals, there should be some guarantee of the good faith of the applicant, and that not only will a building be erected of the character now indicated but that afterwards it will be used for the purposes and in the manner declared.

Therefore, upon the applicant amending the plans on file so as to provide that each of the bed-rooms shall have a clear floor area of 100 square feet at least, and upon his undertaking by his counsel that the building in question shall not at any time, without the consent of the municipality or the Court, be diverted from the uses and purposes or be occupied or used in a manner inconsistent with the uses and purposes now declared by the