

tive duties of the county council and the arbitrators. The county council acts as a judicial body in altering the boundaries; the arbitrators sit in some respects as an appellate tribunal in regard to the boundaries; and the municipality from which it is proposed to take away territory is entitled to the judgment of both bodies.

I think, therefore, that the by-law, for this reason, cannot stand, and that it must be set aside.

It may, perhaps, be well to point out that notice of the application should have been given to the Southampton council before the county council acted upon the petitions. It seems to be the intention of sec. 18 of the Municipal Act of 1903 that the by-law of the county council should provide for the reference of boundaries to the arbitrators only where the municipality from which territory is detached opposes it, and notice to that municipality is necessary for the purpose of ascertaining whether it opposes or agrees to the proposed alteration of its boundaries. That objection, however, was apparent on the face of the county by-law in the present case, and was, therefore, I think, waived by the appointment of an arbitrator.

It was objected that this was not a case in which one municipality could apply to quash the by-law of another, but I think it is manifestly within sec. 378a of the Municipal Act.

Appeal allowed with costs and by-law quashed with costs.

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