

such errors or omissions, and to do all things necessary to be done to the end that no property liable shall escape from its proper proportion of the rate, and for a declaration that the by-law passed by defendant corporation to establish a "Protestant separate school" is illegal and invalid, and that no such school has become established thereunder.

J. Idington, K.C. and R. S. Robertson, Stratford, for plaintiff.

G. G. McPherson, K.C., for defendant corporation.

J. P. Mabee, K.C., for individual defendants.

FALCONBRIDGE, C.J.—I find that plaintiff has failed to prove the allegations of fraud and bad faith set up. . . . The trustees state on oath that they intend to provide for the construction of a school building, and the arrangement made about sending the children to Stratford is temporary only.

If by-law 425 is not a valid by-law, it has been amended by by-law 447, which I hold to be good for the purpose of striking out the lots in section 2.

I find that the petition on which the by-law was based was sufficiently signed. It is proved that there was a sufficient number of heads of families signing the petition, although some or one of those signing may not have been heads of families within the meaning of the statute.

It is sworn by Mrs. Drown, the owner of the 20 acres of which plaintiff is tenant, and it is admitted by plaintiff, that he took his lease from her on the understanding and agreement that his taxes on these 20 acres should go to the Protestant separate school. She was a petitioner and party to the formation of the section, and I think that, under these circumstances, plaintiff has no locus standi to ask for the various other declarations of right which he seeks in this action. He asks for a declaration against or affecting many persons who are not parties . . .

Action dismissed with costs.

MACMAHON, J.

OCTOBER 22ND, 1903.

CHAMBERS.

RE KINNEY.

Will—Construction—Charitable Devises and Bequests—Sufficiency of Designation of Trusts and Beneficiaries—Mortmain Acts—Testator Dying within Six Months after Making Will.

Application by the executors for an order declaring the construction of the will and codicil of Joseph Kinney.