

missing motion to quash by-law No. 480 of the county of Bruce, detaching from the village of Southampton certain lands forming part thereof, and annexing them to the adjoining township of Saugeen.

D. Robertson, Walkerton, and G. H. Kilmer, for the village corporation.

J. H. Scott, Walkerton, for the county corporation.

W. E. Middleton, for the corporation of the township of Saugeen and certain individuals made respondents.

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.), was delivered by

STREET, J.—Under sec. 18 of the Municipal Act, 3 Edw. VII. ch. 19, when an application is made to a county council to detach a portion of one municipality and annex it to another, the county council is not confined in its powers to the boundaries of the lands mentioned in the application, but may detach any lands it may deem proper from the one municipality and attach them to the other, subject, in case of the dissent of the municipality the area of which is reduced, to the award in the 2nd sub-section mentioned. It would, therefore, be no objection to a by-law of a county council detaching two parcels of land from one municipality and adding them to another, that the petition for the by-law described only one of the parcels and asked to have that parcel detached, for the council, being once set in motion, may, in the exercise of its discretion, detach all, or less, or more, than the territory described. The municipalities affected, however, have a right to require that there shall be a real exercise of discretion before the power is acted upon, it being judicial in its nature.

In the present case two petitions were presented to the county council: one for the detaching of the military reserve, a tract of 600 acres, concerning which, had it stood alone, no question could have arisen; the other being that of John Leadbetter and others, saying: "The portion we wish cut off is from a portion of land adjoining Norfolk street from Peel street on the south to Albert street on the north."

Some of the petitioners attended the committee of the county council and explained that the land intended by the petition was a block bounded on the west by Norfolk street, on the east by the Goderich and Saugeen gravel road, otherwise called Carlisle street, on the south by Peel street, and on the