

3. An order for service out of the jurisdiction under Con. Rule 162 (e) was properly made.

The difference between the Rule in Ontario and the Rule in England considered.

Judgment of BRITTON, J., affirmed.

Geo. Kerr, Jr., and J. Montgomery, for the appeal. Eyre, and Wallace, contra.

Falconbridge, J., Street, J., Anglin, J.]

[March 20.]

IN RE INGLIS AND CITY OF TORONTO.

Municipal law—Bonus to manufacturing industry—Motion to quash—Private interest—Registered plan.

Motion to quash a by-law of the City of Toronto providing for the closing of part of Strachan Avenue and conveying the same to the Massey Harris Company by way of bonus for the promotion of the manufacturing industry carried on by them, and to promote an intended enlargement of their works in Toronto. No contract by the company to add to their works, or to increase the manufacture of their implements, or to employ any additional number of men had been entered into:—

Held, that this fact did not invalidate the by-law, or prove that it was passed solely in the private interest of the company and not also in the public interest. The council did not take action in passing the by-law without much consideration, and the Court could not find that it was wrong in the conclusion to which it must be assumed that it arrived, viz., that the public interest would be served by closing and conveying the portion of Strachan Avenue in question. The by-law must, therefore, be held valid under sections 632 and 591 of the Municipal Consolidated Act, 1903, as amended by 4 Edw. VII., c. 22, s. 26, by which it is declared that the bonus which municipalities are empowered to grant under s. 591, sub-s. 12, for the promotion of manufactures within the limits of the municipality may be given by closing up any portion of a street, and conveying it for the use of a manufacturing industry.

Held, also, that the fact that the applicant had bought his land under a registered plan which shewed Strachan Avenue to have a width of 80 feet, did not prevent the municipal corporation passing the by-law in question, though by it the width of the street was reduced at the part affected to 66 feet.

H. S. Osler, K.C., and B. Osler, for applicants (appellants).
Watson, K.C., and Mackelcan, K.C., for City of Toronto (respondents).