

waggon-sheds on the south side of First avenue, and threatened to erect stables on the north side thereof. The property of the plaintiff and others on First avenue was alleged to be good residential property; and the plaintiff sued on behalf of himself and all other property-owners in that locality to restrain the defendants from proceeding with the erection of the sheds and stables.

The defendants on or about the 8th February, 1919, had filed with the Corporation of the City of Toronto, which had been added as a party-defendant, an application for a permit to build stables on the north side of First avenue, which permit, it was said, had not been granted up to the 10th March, 1919. On that day the city council, pursuant to sec. 409 (2) of the Municipal Act, R.S.O. 1914 ch. 192, sec. 409 (2), passed a by-law, No. 8078, which contained the following clause: "No building shall be erected or used as a stable for horses for delivery purposes . . . on the property on either side of First avenue between Broadview avenue and Bolton avenue."

On the 24th March, 1919, the city council passed a by-law, No. 8080, amending by-law No. 8087, repealing clause 1, and substituting therefor the following clause: "No building shall be located, erected, or used as a livery, boarding, or sales stable, or a stable in which horses are kept for hire or kept for use with vehicles in conveying passengers, or for express purposes, or as a stable for horses for delivery purposes . . . on the property on either side of First avenue between Broadview avenue and Bolton avenue."

Notwithstanding these by-laws, the Architect and Superintendent of Buildings for the city corporation granted to the defendants two permits, bearing date the 12th May, 1919, the one for the erection of a one-storey frame and metal waggon-shed and the other for the erection of a three-storey brick stable on First avenue within the prescribed area.

Upon the motion to continue the injunction being made, a preliminary objection was taken, that the plaintiff as such, and even when suing on behalf of himself and all other property-owners on First avenue, had no right of action, but that such lay in the defendant city corporation alone—citing *Mackenzie v. City of Toronto* (1915), 7 O.W.N. 821.

On the other hand, the plaintiff's contention was that the by-law affected only, and was intended to protect and benefit only, a particular group of persons within a named area, citing *Devenport Corporation v. Plymouth Devenport and District Tramways Co.* (1884), 52 L.T.R. 161 (C.A.); *Halsbury's Laws of England*, vol. 21, p. 553; *Dawson & Co. v. Bingley Urban District Council*, [1911] 2 K.B. 149, at p. 159.