

dence upon which the assessment of damages could be fairly made upon the basis upon which the judgment rests, and I do not feel called upon to interfere therewith.

I think the appeal should be dismissed with costs.

MACMAHON, J.

OCTOBER 22ND, 1904.

WEEKLY COURT.

RE INGLIS AND CITY OF TORONTO.

*Municipal Corporations—By-law Closing up Part of Street—Ordinance Lands—Street Laid out by Dominion of Canada—Consent of Dominion Government—Absence of—Void By-law—Subsequent Consent—Amending By-law.*

Motion by the John Inglis Co. (Limited), ratepayers of the city of Toronto, for an order quashing by-law No. 4420 passed by the municipal council on 26th September, 1904, being a by-law to provide for the closing of Strachan avenue and conveying the same to the Massey-Harris Co. (Limited), on the following grounds: (1) That the corporation had no power to pass the by-law because Strachan avenue, being a public street over which the corporation had assumed jurisdiction, was laid out by a plan which included the property of the applicants, whose predecessors in title purchased according to that plan, and who had not consented to the proposed alteration. (2) Because the by-law was bad upon its face in that it did not recite the consent of the Government of the Dominion of Canada, as provided by the Consolidated Municipal Act, 3 Edw. VII. ch. 19, sec. 628, the street having been laid out by His Majesty's Ordinance. (3) That the by-law provided for a conveyance by way of free gift to a private corporation, and was not a by-law in the public interest, but solely in the interest of the private corporation.

H. S. Osler, K.C., for the applicants.

J. S. Fullerton, K.C., for the city corporation.

G. H. Watson, K.C., for the Massey-Harris Co.

MACMAHON, J.—Strachan avenue is 80 feet wide, and on 13th June, 1904, the Massey-Harris Co. wrote to the city