

MACMAHON, J., held that by-law 2083, not having been signed by the mayor, who was the presiding officer at the meeting at which it was passed, was inoperative: *R. S. O. ch. 223, sec. 333*; *Canada Atlantic R. W. Co. v. City of Ottawa*, 12 S. C. R. 379; *Wigle v. Village of Kingsville*, 28 O. R. 378. Until a by-law was passed and formally accepted by plaintiffs by an agreement binding on them, they were acting without authority in building a line of railway and running cars thereon. The plaintiffs were, therefore, not entitled to the mandatory order asked for to compel the mayor to sign the by-law.

The plaintiffs asked leave to amend so as to claim, in the alternative, a mandamus to the council to pass a by-law in accordance with the resolution of 29th April. It was urged that, as the council had passed the resolution providing for the building by the plaintiffs of the new lines, and as the plaintiffs had proceeded with and built some of the lines in accordance with the resolution and with the sanction of the city engineer, who furnished the grades for the lines on Beaconsfield avenue and Woodley road, the defendants were bound. It was held, however, that the engineer could not bind defendants by giving the grades; the manager of plaintiffs obtained the grades from the engineer, and proceeded with the building of the lines, taking his chances of the resolution being ratified by by-law. The amendment should not be allowed, as, upon the facts, plaintiffs are not entitled to the mandamus.

It was also held, that the council had authority to pass by-law 2099, changing and varying the routes, and by-law 2100, regulating the speed and service of the cars on the various routes, was also valid. As to the by-law No. 2101, requiring plaintiffs to lay down a new line and extend the existing lines to the extent of 7,380 feet of track, it was held that, having regard to the taking into the city of London of the village of London West, with its additional street railway mileage, the defendants are not entitled to all the tracks mentioned in by-law No. 2101, and that by-law is bad.

Upon one question arising in the case, judgment was given as follows:—

The mayor, on the 21st June, 1902, caused a special meeting of the council to be summoned to consider the street railway by-law, 2083, at which meeting the by-law as amended was (under the emergency clause of the city's by-laws) read a first, second, and third time. The by-law was carried by a vote of six yeas to five nays, Alderman Pritchard voting with the yeas.

Counsel for the city urged that the by-law was not duly passed because John H. Pritchard had been declared entitled