

Legal Decisions.

BELL ORGAN CO. VS. WOODS.

A case of considerable interest to taxpayers was heard by Judge Morgan at Toronto. The Bell Organ and Piano Company brought suit against J. S. Woods, tax-collector, and N. J. Stevenson, his bailiff, to recover an organ which had been sold by the company under the ordinary sale agreement or hire receipt to a Mr. Dane, and had been seized for arrears of taxes due by Dane for 1891. The objection was raised by the company's solicitors the organ could not be distrained for taxes, as it was not the property of Mr. Dane, the person occupying the premises, relying on the Landlord and Tenant Act, chapter 143 of the Revised Statutes of Ontario, section 27, which enacts that "the goods and chattels exempt from seizure under execution" shall not be liable to seizure by distress by a collector of taxes unless they are the property of the person actually assessed for the premises and whose name also appears on the collector's roll for the year as liable therefor. The plaintiffs contended that this included all goods which could not be seized under an execution for any reason, but the judge held that the words used included and protected only the goods which are contained in the list of exemptions in the Execution Act, and has accordingly given judgment in favor of the defendants. From this judgment it appears that articles sold under hire can be sold for taxes.—*News-Letter*.

HOLT ET AL VS. THE CORPORATION OF THE TOWNSHIP OF MEDONTE ET AL.

This was an action brought by William Holt, on behalf of himself and other ratepayers and the board of public school trustees for school section No. 4, of the township of Medonte, against the corporation of the said township. The board of public school trustees for school section No. 16, of the said township, and Wm. Campbell, Francis Greenlaw and Joseph Rumble, trustees of said sec. No. 16, to have it declared that the attempted division of school section No. 4, for school purposes was illegal. The facts were as follows: On April 15th 1891, a petition was presented at a meeting of the township council by the defendants, Campbell, Greenlaw, Rumble and others, praying the council to pass a by-law, to form a new school section by dividing section 4. At that meeting, the clerk was, by resolution, instructed to notify the trustees of school section No. 4, that the council would, at its next meeting, consider the advisability of passing a by-law for the purpose of dividing school section No. 4. No further resolution was passed, nor was any notice given to any ratepayers, until April 29th. On April 24th the secretary-treasurer of school section No. 4 received a notice from the township clerk, notifying the trustees that the council intended at their next meeting on April 29th,

to consider the advisability of passing a by-law for the purpose of dividing school section No. 4, Medonte. At the said meeting the said council without further notice, and against the protests of some ratepayers, passed a by-law separating certain lots from school section No. 4, and formed them into a new school section as No. 16. In consequence of protests and objections by ratepayers, the council on June 5th, repealed the said by-law by another, and that neither of the said by-laws ever had the seal of the corporation affixed. An appeal was taken to the county council by the defendants Campbell, Greenlaw and Rumble, against the latter by-law, and proceedings were ordered by way of arbitration under sec. 82 of the Public Schools Act, Ont. stats. 54 Vic. chap. 55, and an award was made, by which the latter by-law was declared invalid. The school trustees of sec. 4 were notified by the school inspector, and the township clerk and the defendants Campbell, Greenlaw and Rumble proceeded to organize school section 16, and were elected school trustees. The plaintiff asked that the by-law of April 29th and all proceedings taken thereunder, be declared illegal and irregular, and for an injunction to restrain the levying of any school rate for said sec. 16.

It was held that the defendants should be restrained from acting on the supposed division of the section, and that a by-law of a township corporation for the purpose of dividing a school section is invalid unless under the corporate seal and signed by the head and by the clerk of the corporation. The learned judge remarking that, the vital point of the litigation therefore it seems to me depends on the validity of the by-law, which alone justifies the division of the school section into two parts. It is, however, in my opinion ineffectual because it is not a by-law, so that it neither accomplishes the object of the corporate action, nor does it bind the ratepayers of school section No. 4, as constituted before the attempted division.

THE CORPORATION OF THE CITY OF TORONTO VS. THE ONTARIO AND QUEBEC RAILWAY COMPANY.

This is a case of interest to municipalities offering bonuses to railway companies. A railway company having obtained a bonus from the plaintiff upon condition that its machine shops should be located and maintained within the limits of the city of Toronto, did so erect and maintain therein for some years, until authorized by legislation it amalgamated with another company all the engagements and agreements of the amalgamating companies being preserved. The amalgamated company was afterwards leased for all time to come to a larger railway company, who removed the shops outside the limits of the city. It was held that although all engagements and agreements of the original company were preserved, the amalgamation and basis for all time to come of the smaller by the larger company under the

authority of parliament imposed new relations in the amalgamated road which effected a change in the policy as to the site and size of the machine shops and that the engagement had been satisfied by the maintenance of the said shops by the original company during its separate existence.

IN RE PRITTIE AND THE CITY OF TORONTO.

The defendant corporation, expropriated by various by-laws, certain lands belonging to Mrs. Prittie for the purpose of constructing thereon a sewer, the dimensions and direction of the sewer, and the nature of certain rights of entry for the purpose of repair and maintenance being defined in these by-laws. An arbitration was had pursuant to the provisions of the Municipal Act. Judge Morgan being the arbitrator. An award was made in favor of Mrs. Prittie on the 31st December, 1890. On the 19th January, 1891, the award was filed in the office of the registrar of the Queen's Bench division. On the 10th of February, 1891, notice of motion against the award was given. This was an appeal by the city from the judgment of Mr. Justice Falconbridge dismissing with costs a motion by the city to set aside the said award. As a preliminary objection to the hearing of the appeal, it was urged that the motion had not been made in time, and in the merits it was contended on behalf of the city that for the purpose of assessing the damages the arbitrator took the value of the land at a date later than that which should have been adopted, and also that on the evidence he had erred in the conclusion that he had come to as to that value.

It was held, reversing the judgment of Mr. Justice Falconbridge, that when a municipal corporation expropriates land, the date of the passing of the by-law defining the lands and the nature of the rights required, is the date in relation to which the corporation should be assessed, Sec. 4 of Ont. stats. 52 Vic., chap. 13, which requires motions to set aside awards of a specified kind to be made within fourteen days from the date of filing of the same; and sec. 6 of the same act which allows motions, to set aside awards of another kind to be made within three months from the making and publication thereof do not apply to arbitrations under the Municipal Act, and a motion made on the 10th of February, 1891, to set aside an award made in an arbitration under the Municipal Act, on the 31st December 1890, and filed on the 19th of January, 1891, was held to be in time.

Industrial expansion is a new name for bonusing, and is accomplished by exempting from taxation for a limited period, the machinery, plant and tools used in every manufacturing industry in a municipality, and by grants of free water and taxes in special cases.