

of a mandamus ordering the defendants the Corporation of the City of Stratford to assess and levy from the other defendants (the George McLagan Furniture Co. and the Whyte Packing Co.) proper school rates for the present and succeeding years, notwithstanding a by-law of the city corporation exempting these co-defendants from taxation for a term of 20 years not yet expired. The plaintiff was a ratepayer of the city, suing on behalf of himself and all other ratepayers.

On the 10th April, 1900, a by-law was submitted to the vote of the electors to enable the city to guarantee the payment of a loan of \$30,000 to be obtained by the defendant companies in connection with agreements to be entered into between the companies and the city for the erection of factories. The by-law provided that, in the event of agreements satisfactory to the council being entered into, the lands whereon the factories should be erected should be exempt from taxation for the period of 20 years next succeeding the giving of the guarantee. The by-law was carried by more than the requisite majority, and by an Act of the Legislature, assented to on the 30th April, 1900, it was provided that the city should have power to pass the by-law which had been so assented to, and, subject to the passing thereof, the by-law was confirmed and declared to be legal and binding upon the city. The council passed the by-law on the 7th May, 1900, and thereafter entered into agreements, in expressed pursuance of the Act, by which the companies "are to be given exemption from taxation for the lands and premises described and the buildings, plant, and machinery thereon, for the term of 20 years from the 1st January next ensuing the date hereof. Provided always such exemption from taxation shall not be deemed to authorise exemption from taxation for school purposes from and after the amendment of said by-law 852 upon request of the company . . ."

The proviso was not in the form of agreement set forth in the schedule to the Act.

No amendment of the by-law was required, but from the execution of the agreement to the time of the action, under the assumed authority of the by-law and agreement, school taxes were not imposed or levied upon the companies.

MACMAHON, J., made a mandatory order in respect of the present and future years, but refused relief as to past years.

The appeals and cross-appeals were heard by Moss, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.