THE RURAL MUNICIPALITY OF ST. VITAL (DEFENDANT)..... } APPELLANT;

AND

THE CITY OF WINNIPEG (PLAINTIFF) ..... } RESPONDENT.

1945

*Oct. 25, 26
*Dec. 21

ON APPEAL FROM THE COURT OF APPEAL FOR MANITOBA

Taxation (municipal)—Exemptions—Land, acquired by city, situate outside its limits—Operated as public golf course—Whether exempt from municipal taxation by municipality where land is situate—Whether used for "public park purposes"—Whether held for "the public use of the city"—Whether school taxes are included in "municipal taxation"—The Winnipeg Charter, Man. S., 1918, c. 120, s. 4 and s.s. 14 of s. 700 (now Man. S., 1940, c. 81).—The Municipal Act, R.S.M., 1940, c. 141.

*PRESENT:—Hudson, Taschereau, Rand, Kellock and Estey JJ.

(1) (1871) 6 Ch. App. 597.
(2) [1897] 1 Q.B. 483.
(3) [1923] 2 Ch. D. 259.

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The land in question in this case, situated within the territorial boundaries of the appellant rural municipality, was acquired by the city respondent under powers contained in its charter and operated for it by its public parks board as part of a public golf course open to anyone, whether a resident of the city or not, paying green fees. The question for decision in this appeal is the validity of tax levies imposed on such land by the appellant municipality.

Held, affirming the judgment of the Court of Appeal ([1945] 1 W.W.R. 161), that the land was used for "public park purposes" within the meaning of section 4 of the Winnipeg charter and exempt thereunder from taxation by the appellant rural municipality.

Held, also, that such land was held "for the public use of the city" within the meaning of subsection 14 of section 700 of the charter, and therefor was forming "part of the city". Rand and Kellock JJ. *contra.*

Per Rand and Kellock JJ.—School taxes are included in "municipal taxation", as that language is used in section 4 of the respondent city's charter.—*Per* Hudson, Taschereau and Estey JJ.—Assuming that there was no exemption from school taxes, it would be no answer to the respondent's action where both municipal and school taxes together form the levy and basis of the tax sale by the appellant.

APPEAL from a judgment of a majority of the Court of Appeal for Manitoba (1), affirming the judgment of the trial judge, McPherson C.J. K.B. (2), and maintaining the respondent city's action.

The material facts of the case and the questions at issue are stated in the above headnote and in the judgments now reported.

Angus McDonald for the appellant.

G. F. D. Bond for the respondent.

The judgment of Hudson, Taschereau and Estey JJ. was delivered by

HUDSON J.—The city of Winnipeg owns land lying within the territorial boundaries of the appellant municipality, as defined by the *Municipal Boundaries Act* of Manitoba. The question for decision in this appeal is the validity of tax levies imposed on such land by the municipality.

It is admitted that the land in question forms part of what is known as Windsor Park Golf Course, and that it was acquired by the city under powers contained in its

(1) [1945] 1 W.W.R. 161; [1945] 1 D.L.R. 708.
(2) [1944] 2 W.W.R. 217.

charter. This golf course is maintained and operated by the Public Parks Board of the city as a public golf course open to anyone (whether a resident of Winnipeg or not) paying the green fees and obeying the rules of the course. No taxes were levied against the land from the year 1924, when the plaintiff city acquired same, until 1939, but in that year and in 1940 a levy was made for both municipal and school taxes. The plaintiff did not pay the amount so levied and on the 18th of September, 1941, the defendant sold the lands for non-payment of the taxes and, as permitted by the Manitoba statutes, itself purchased the same at the tax sale. The plaintiff failed to redeem within one year and, as a consequence, the defendant municipality applied to the District Registrar for a certificate of title. The city then under protest paid to the District Registrar the sum of $1,751.40 to redeem the land and prevent the issue of a certificate of title.

In its statement of claim the plaintiff alleges that the land was not taxable and that the defendant's proceedings for assessment and levy were defective in form. The claim is for a declaration that the lands were exempt, that the assessment and levy were illegal and void, and for an order against the defendant for payment of the sum of $1,751.40. The defendant in reply asserted its right to impose the taxes and the regularity of its proceedings.

The action was tried before Chief Justice McPherson, then of the Court of King's Bench, and he found for the plaintiff and awarded the relief claimed in the statement of claim. This was affirmed in the Court of Appeal by a majority of four to one; Mr. Justice Dysart sitting *ad hoc* dissented.

In order to impose the taxes, the municipality must have clear statutory power to do so.

The powers and the government of the city of Winnipeg are provided for by a special charter, S.M., 1918, c. 120; that of most other municipalities in Manitoba, including the appellant, by general municipal and assessment Acts, which do not apply to Winnipeg, except in the case of special provisions expressly or impliedly made applicable by the *Municipal Act*, S.M., 1933, c. 57, sec. 2 (*h*), and the *Assessment Act* of 1934.

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The legislation primarily relied on by the municipality is found in the *Assessment Act*, S.M., 1934, c. 49, sec. 3 (1):

All lands shall be liable to taxation by a municipality subject to the following exemptions:

Neither parks nor golf courses are specified under the heading of exemptions.

It is further provided by section 6:

Property owned by a municipality, but situate within the bounds of another municipality, shall, unless exempted therefrom, be liable to assessment and taxation by the latter municipality.

The lands in question fall within the territorial boundaries of the municipality, as defined by the *Municipal Act*.

However, it is provided in the Winnipeg Charter, sec. 700 (14):

700. The city may pass by-laws not inconsistent with the provisions of any Dominion or Provincial statutes:

(14) For acquiring and holding, by purchase or otherwise, for the public use of the city, lands situate outside its limits; and such land so acquired shall form part of the city.

It is contended on behalf of the municipality that section 700 (14) does no more than include the land within the city for administrative purposes, and secondly, that this golf course which is used only by those who play golf is not for public use within the meaning of the section.

As to the first of these objections, no good reason was given why a restricted meaning should be given to the words of the Legislature. Moreover, if we look at the corresponding section in the *Municipal Act*, S.M., 1933, 57, sec. 385 (*b*), we find that the Legislature thought it necessary to expressly authorize such taxation. The difference between the sections is not accidental. It survived careful scrutiny by the Legislature in several revisions of these statutes in the past forty years.

As to the second objection, the expression "public use" must be taken, I think, to include any such use as by the manner of place and time reasonably may be said to promote the health, welfare or happiness of citizens, or any substantial number of them.

The city, through its Public Parks Board, is given express powers to provide facilities for all forms of recreation. Sec. 835 of the *Municipal Act* is as follows:

The parks board may provide facilities for all forms of recreation and may, from time to time, pass by-laws for the use, regulation, protection, government, and operations of the same and the charges for admission thereto or use thereof.

In England, without such a specific provision, it has been held that a municipal golf course was within the proper field of municipal governmental activities: *Mitcham Golf Course Trustees* v. *Ereault* (1).

This view is supported by many decisions of the courts in the United States, some of which are referred to by Mr. Justice Bergman in his judgment. In the case of *Shoemaker* v. *United States* (2), the Supreme Court unanimously held that the land taken for a public park was taken for a public use.

I am, therefore, of opinion, that neither objection to the application of sec. 700 (14) can be sustained and that for this reason the appeal fails.

It was also contended on behalf of the city that the land is exempt under sec. 4 of the city charter which is as follows:

> All lands used for public park purposes or exhibition grounds, now or hereafter owned by the city, which are situate outside the territorial limits of the city, shall be exempt from municipal taxation by any municipality in which such lands are situate.

The property in question has all the characteristics usually associated with the term "park". It has an extended area with trees, shrubs and lawns and in itself is admirably suited for outdoor pleasures and recreation. It thus falls within the dictionary meaning of the word "park". Oxford Dictionary:

> An enclosed piece of ground of considerable extent, usually within or adjoining a city or town, ornamentally laid out and devoted to public recreation.

Stroud's Judicial Dictionary:

> The modern definition of "park" is an enclosed (private or public) space of ground set apart for ornament, or to afford the benefit of air, exercise or amusement.

However, the exemption is of lands "used for public park purposes" and it is contended on behalf of the municipality that its *use* exclusively as a golf course where only golf players are admitted and required to pay green fees, deprives it of the character of a public park.

Chief Justice McPherson and the majority or the Court of Appeal were of the opinion that this limitation on the use of the property did not alter its essential character and that it still remained a public park and was used as such.

(1) [1937] 3 All. E.R. 450. (2) (1893) 147 U.S. 282.

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Counsel for the municipality in his factum raises a point which does not appear to have received the attention of the courts below. He refers to sec. 802 of the *Municipal Act* which is as follows:

> All parks, boulevards, avenues and drives and approaches thereto or streets connecting the same, dedicated to public use in any municipality where this division is adopted, shall be open to the public free of all charge, subject to such rules and regulations as the Parks Board makes as to the use thereof.

It is, of course, admitted that under sec. 835 of the *Municipal Act*, already quoted, the Parks Board has the right to provide facilities for all forms of recreations and might pass by-laws for the use, regulation and operation of same, and the charges for admission thereto or use thereof.

It is suggested that, although there is an apparent conflict, there is room for the application of both, that is, that a public park might have within it areas used for particular forms of recreation where charges might be made, but that this does not extend to a case where the use of the whole park is confined to the one form of recreation and where fees are exacted for the use thereof.

It was pointed out in the court below that the city of Winnipeg has a park system consisting of many parks, only two of which are devoted exclusively to golf, that golf is a game which requires a large space and that the practical use of the course is necesssarily confined to those who play the game.

I am of opinion that under the circumstances here the restriction placed upon the use of the Windsor Park Golf course are authorized by the concluding words of section 802 and that the land in question should be held to be used for public park purposes, within the meaning of section 4 of the charter.

It was also submitted that there was no exemption from school taxes but, even if this were so, it would be no answer to the present action where both municipal and school taxes together form the levy and basis of the tax sale by defendant.

The city also contended that there were irregularities in the assessment and tax notices which vitiated the taxa-

tion and the sale. Having come to the conclusion that the appeal should be dismissed for the reasons already stated, it is not necessary to discuss this.

I think the appeal should be dismissed with costs.

The judgment of Rand and Kellock JJ. was delivered by

KELLOCK J.—This is an appeal by the Rural Municipality from the judgment or order of the Court of Appeal of Manitoba, dated the 15th of January, 1945, dismissing its appeal from a judgment of the Court of King's Bench in favour of the respondent. The action was brought for the recovery of the sum of $1,751.40 paid under protest by the respondent to the appellant to prevent the registration of the appellant as owner of certain park lands of the respondent situate within the territorial limits of the appellant and which the appellant had purported to sell to itself for certain arrears of taxes in respect of alleged assessments for the years 1939 and 1940. The respondent denied that under the relevant legislation the lands in question were assessable by the appellant. Respondent alleged that the lands had been purchased by it in 1924, and had since that time been held as part of a system of parks operated by the Public Parks Board of the city pursuant to the provisions of the *Municipal Act* R.S.M. 1940, c. 141.

The legislation relied upon by the respondent in support of its claim to exemption are sections 4 and 700 (14) of the Winnipeg Charter, S.M. 1918, c. 120, which read as follows:

4. All lands used for public park purposes or exhibition grounds, now or hereafter owned by the city, which are situate outside the territorial limits of the city, shall be exempt from municipal taxation by any municipality in which such lands are situate.

700. The city may pass by-laws not inconsistent with the provisions of any Dominion or Provincial statutes;

* * *

(14) For acquiring and holding, by purchase or otherwise, for the public use of the city, lands situate outside its limits; and such land so acquired shall form part of the city;

Appellant says that section 4 is inapplicable for the reason that, as it contends, the respondent is not operating a public park on the lands within the meaning of the legislation and in any event "municipal taxation" does

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not include school taxes. As to section 700 (14), appellant contends that the words " shall form part of the city" mean no more than that the lands belong to the respondent but are not exempt from taxation and that in any event the lands in question are not held "for the public use" of the respondent, within the meaning of the subsection. It will be convenient to consider first sec. 700 (14) and as to whether or not the lands here in question are within this legislation.

As far back as 1882, the then charter of the respondent, 45 Victoria, c. 56, sec. 147, enabled its council to pass by-laws for acquiring such lands as might be required for the use of the city, within or without its limits for the purpose of establishing cemeteries and parks as well as "for any purpose whatsoever." The power so given might be exercised compulsorily.

In 1884 the section was recast in the charter of that year and appears as sec. 149 (116) of 47 Victoria, c. 78. As recast, it would appear to authorize a voluntary acquisition only. By sec. 234 of c. 11 of the *Municipal Act* of the same year, provision was made for compulsory acquisition of any lands

> that may be necessary for *public use* of the inhabitants of such municipality or for any municipal purposes whatsoever, which said lands, it is hereby declared to be lawful for such municipality to expropriate for such purposes.

In 1886, the *Municipal Act,* 49 Victoria, c. 52, was passed in substitution for both Acts of 1884, which were thereby repealed.

Sec. 347 (1) of the Act of 1886 authorized the acquisition of land (presumably inside the municipality only) for "the use" of the corporation. This provision is still to be found in sec. 385 (*a*) of the *Municipal Act* of 1933, c. 57. Subsection 18 of sec. 347 authorized by-laws "for accepting or purchasing" land, inside or outside the municipality, for public cemeteries only. Parks are not mentioned. The by-law is to declare in express terms the purpose for which the land is acquired. It is provided that when acquired, the land, although outside, is to become part of the municipality acquiring it and ceases to be part of the municipality to which it formerly belonged. The power to acquire does not include the power to take com-

pulsorily. Sec. 349 (45) would appear to be the original ancestor of sec. 700 (14) of 1918, unless it can be said that it arose out of sec. 234 of 47 Victoria, c. 11. Sec. 349 (45), however, unlike sec. 700 (14) of the 1918 Act, provides that land acquired under its provisions

> shall not form part of the municipality of such city or town, but shall continue and remain as of the municipality where situate.

Nowhere in the Act of 1886 are parks spoken of and this would appear to have been an omission which was remedied in 1888. It may be noted in passing that the *Public Parks Act* was not passed until 1890, 55 Victoria, c. 31.

In this state of the legislation, it would seem clear as to lands acquired by the respondent outside its boundaries, for the purposes of a cemetery, that such lands would not, in the contemplation of the legislature, have been "for the public use of the municipality" for the reason not only that lands for cemeteries were specially dealt with, but that lands acquired for the "public use" continued, by virtue of the express terms of sec. 349 (45), to remain part of the municipality where situate, while lands acquired for the purposes of a cemetery under 347 (18) became part of the municipality acquiring them.

In 1888, by sec. 51 of 51 Victoria, c. 27, a new section, section 431A, was added and made applicable to the respondent only. This section provided for acquisition by the respondent by purchase or compulsorily, of lands inside or outside its boundaries for the purposes of cemeteries or parks. Not only did this section supply the omission as to lands for park purposes, but it gave the city *compulsory* powers as to acquiring lands in outlying municipalities for cemetery purposes, which had not been given by the Act of 1886.

In 1890, a new *Municipal Act,* 53 Victoria, c. 51, was passed. Sec. 347 (18) of 1886 became 375 (18); sec. 349 (45) became 376 (18) but a change was made and lands acquired under this provision were to become part of the city, town or village acquiring them. Sec. 431A became sec. 473.

In the revision of 1891 the *Municipal Act* became chapter 100. Sec. 375 (18) of 1890 became sec. 603 (*c*); sec. 376 (18) became sec. 602 and sec. 431A became sec. 571.

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In 1902, a new Winnipeg charter was passed; 1-2 Edward VII, c. 77. Sec. 571 of 1891 became sec. 691 of the new Act. Sec. 603 (*c*) became sec. 703 (11); and sec. 602 became sec. 703 (4) (5) (6), but in the legislation of 1902 the provision making outlying lands acquired for cemeteries part of the city acquiring them, which had persisted down to 1891, was dropped. The situation then with respect to cemetery lands outside the city became just the reverse of what it had been under the Act of 1886, but as in 1886 outside lands for cemeteries could not be within the "public use" clause because the former were to become part of the city while the latter were to remain part of the outside municipality, so in 1902 cemetery lands could not be within the "public use" clause because unlike the latter they were not to be part of the city but to remain part of the outside municipality. In my opinion, this had always been true of outside lands acquired for park purposes. They had never at any time been declared to be part of the city. But if it could have been argued before 1891 that outlying park lands, although the subject of special legislation, were nonetheless within the "public use" clause, no such argument in my opinion could have been accepted after the legislation of that year. The legislature, by continuing to legislate with respect to outlying parks and cemeteries by the same provision in sec. 691, and by dropping from sec. 703 (4) the provision of the old section 602 that cemetery lands were to become part of the city indicated that parks and cemeteries were on the same footing and remained part of the municipality where they lay. If that be true, neither could be considered as within the "public use" provision.

The enactment of sec. 4 in 1912 supports the conclusion arrived at. Its enactment indicates that such lands were considered subject to assessment and taxation in the municipality where situate and if they were to be exempted legislation was necessary for the purpose. Section 12 of the *Assessment Act,* R.S.M., 1902, c. 117, provided that

> any property owned by a municipality, but situate within the bounds of another municipality, shall be liable to assessment and taxation by the municipality within which it is situate, unless the same be exempted from taxation by the Council of the municipalty within which such property is situated.

I do not think, therefore, that it can be said, as contended by respondent, that section 4 of 1912 was an unnecessary enactment. To complete the statutory history, section 703 (4) (5) and (6) of 1902 became sec. 700 (6) (7) and (8) of 1918 and section 691 became section 696.

Coming then to section 4 of 1918, the appellant submits that the lands in question are not "used for public park purposes" within the meaning of the section and that therefore there is no exemption. Counsel contends that the existence of by-law 25 of the Public Parks Board of the respondent prevents the lands in question from being considered as a public park or used for public park purposes. By-law 25 is as follows:

1. No person other than employees of the Board shall be permitted upon any golf course provided or operated by the Public Parks Board of the city of Winnipeg unless and until he or she shall have paid or caused to be paid the admission fee provided from time to time by the by-laws of the said Board;

2. No person other than employees of the said Board shall be permitted on any golf course for any purpose other than the playing of the game of golf and subject to the rules and regulations which may from time to time be prescribed by said Board * * * etc. etc.

4. Any person found guilty of an offence against any of the provisions of this by-law, shall, for every such offence, be liable to a fine not exceeding twenty-five ($25) dollars or he may be imprisoned with or without hard labour for a term not exceeding ten days.

It is stated, in the formal admissions filed, that the lands are

maintained and operated by the Public Parks Board of the city of Winnipeg for the plaintiff as a public golf course open to anyone paying the green fees and obeying the rules of the course whether a resident of Winnipeg or not.

Prior to 1933, the Public Parks Board of the respondent had been constituted under the provisions of the *Public Parks Act* which goes back to 55 Victoria, c. 31. In 1933, this Act became Division III of the *Municipal Act,* 23 George V, c. 57, sections 797 to 848 inclusive.

It is to be observed that the title of Division III is "Public Parks." These provisions of the statute become applicable to any municipality upon adoption in the prescribed manner and are applicable here.

Sec. 802 prescribes that all parks shall be open to the public free of all charge

subject to such rules, by-laws and regulations as the Parks Board makes as to the use thereof.

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The Board, by sec. 818 (1), is authorized to pass by-laws for, among other things, the "use," and "regulation" of the parks. By sec. 835, it is provided that the Parks Board may provide facilities for all forms of recreation, and may from time to time pass by-laws for the use, regulation, protection, government and operations of the same and the charges for admission thereto or use thereof. In my opinion, these provisions authorize the operation of the golf course here in question and the appellant's objection is not maintainable.

There remains to be considered the question as to whether or not school taxes are included in "municipal taxation" as that language is used in section 4. Appellant contends they are not. In *Canadian Pacific Railway Company* v. *The city of Winnipeg* (1), this Court held that a by-law of the city of Winnipeg passed in 1881 exempting the Railway Company' lands from

> all municipal taxes, rates and levies, and assessments of every nature and kind

included school taxes in the exemption. In giving the judgment of the Court, Sedgewick J., at page 564, accepted the definition of "municipal taxes" as

> taxes imposed by the governing body of the municipality for the purposes of the municipality

and that

> taxes imposed for the support of schools in a municipality in my view are taxes for the purposes of the municipality

He also said

> I submit that any taxation by a municipal body for the purpose of raising money to relieve itself from a municipal obligation is taxation for a municipal purpose. The obligation of imposing this tax and of collecting it was one of the city's legislative burdens. Relief from that burden must therefore necessarily be a municipal purpose and the moneys raised therefor a municipal tax.

Under the legislation there considered, the school trustees had the right of determining without question the amount to be raised for public school purposes and of authoritatively calling upon the city authorities to collect and hand over that amount, while the latter authorities were under an absolute obligation to obey the behests in that regard of the school trustees.

What did the legislature intend by the use of the phrase "municipal taxation" in the legislation of 1912? The *Assessment Act*, R.S.M. 1902, c. 117, with some amend-

(1) (1900) 30 Can. S.C.R. 558.

ments to which I shall refer, is the legislation to be considered in the determination of the question. This statute governed the assessability and taxability of lands in rural municipalities, including the appellant. Sec. 5 provides that all lands and personal property shall be liable to "municipal taxation" subject to certain exemptions therein specified, among which is clause (*b*) reading, "lands vested in or held in trust for *any* municipality." However, owing to the provisions of sec. 12 of the statute already referred to, this clause is not important and was amended in the revision of 1913 to make the two provisions harmonize. Sec. 13, as amended in 1911 by 1 George V, c. 32, sec. 1, provides for the valuation of all the ratable property in the municipality and for the making of an assessment roll. By sec. 118, it is provided that after the final revision of the assessment roll and the passing of the by-law levying the rate, the clerk of each municipality is to make out a general tax roll in which he shall enter all the land and taxable property in the municipality comprised in the assessment roll, and he is to set down in the roll the amount of each rate in separate columns with the name or object of each such rate, such as "local rate" or "town rate" or "school rate" or otherwise as the case may require, and the amount for which the person is chargeable for each purpose respectively and the total amount required to be collected from or paid by such person or property on the assessment of that year for "all the purposes" for which a levy is required to be made in a municipality, and every rate, the purposes of which are required by law or by the by-law imposing it to be kept distinct and accounted for separately shall be so entered and calculated separately. There would appear to be no doubt that school taxes are by this legislation considered as but a part of the municipal taxes as a whole. By sec. 48 (*c*) of the *Public Schools Act*, R.S.M., 1902, c. 143, trustees of rural school districts had the duty of applying to the municipal council annually for the levying and collecting by rate of all sums required in connection with schools. Reference may also be made to sec. 145 of the *Municipal Assessment Act* which made provision for the recovery by execution of "any school

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or other taxes," and to sec. 151 which authorizes the municipality by by-law to remit either in whole or in part "any taxes" upon certain grounds shown.

It would appear clear from these provisions that when the legislature provided in 1912 for the exemption of Winnipeg park lands in other municipalities from "municipal taxation" it intended to include all items included in that term by the statute which dealt with such matters, namely, the *Municipal Assessment Act*. I do not think that the provisions of section 139 of the *Public Schools Act*, R.S.M., 1902, c. 143, affect the matter. Section 136 of that statute obliged the Council of each rural municipality to levy on the taxable property in each school district the sum of money required by the school district in addition to the legislative grant and the general municipal levy provided for by sec. 130. Section 139 provides that the taxable property in the municipality for school purposes shall include all property liable to "municipal taxation" and also

> all property which has heretofor been or may hereafter be exempted by the municipal council from municipal taxation but not from school taxation. No municipal council shall have the right to exempt any property whatsoever from school taxation.

This section does differentiate between "municipal taxation" and "school taxation" but refers to the exercise by a municipal council of its power to exempt lands and prohibits the council from exempting lands from school taxation. The present problem does not concern any action by a municipal council, but merely as to what was intended by the legislature by its use of the phrase "municipal taxation." It might be argued that by reference to sec. 5 (*g*) of the *Municipal Assessment Act* which exempts from "municipal taxation" all lands "legally exempted from taxation by a by-law of the municipal corporation" that the word "taxation" in that clause and the phrase "municipal taxation" at the beginning of the section have the same meaning as the same phrase when used in sec. 139 of the *Public Schools Act*. In view of the other sections of the *Municipal Assessment Act* to which I have referred, it seems to me that this is not the correct interpretation, and that sec. 139 above was intended merely to operate as a restriction on the municipal council's power of exemption and is not to be used in support of the argument above set

forth. We were not referred to any subsequent legislation which affects this view and I have not been able to find any. The problem in the case at bar is not the same as that under consideration in *L'Institut de Notre Dame des Missions* v. *Brandon* (1), and *Ontario Power Company of Niagara Falls* v. *Municipal Corporation of Stamford* (2), which dealt with legislation validating municipal by-laws.

I do not think that sec. 828 (3) of the *Municipal Act* of 1933 which enacts that

> lands acquired by a Parks Board outside the municipality may be exempted from taxes, but not from school taxes, by the municipality where situate

can interfere with the operation of sec. 4 of the Winnipeg Charter. It is a section of general application and permissive in character.

I would therefore dismiss the appeal with costs.

Appeal dismissed with costs.

Solicitor for the appellant: *Angus McDonald.*

Solicitor for the respondent: *R. W. Wydeman.*