As to the second question, we are bound by the decision of the Court of Appeal in In re Flatt, 18 A. R. 1, to hold that B. F. Doupe, Wesley Shier, and Richard Selves were not qualified voters.

Assuming everything in favour of the respondents, the highest position of these three men was that of persons who were in possession of the land, as freeholders of which they voted, under parol agreements with the owners entitling them on doing something which had not yet been done to a conveyance of the land, and such persons were held by the Court of Appeal not to be freeholders within the meaning of sec. 9 of the then Municipal Act, R. S. O. 1887, ch. 184. . . .

The vote of R. C. Hunter is clearly bad. He had no estate in the land in respect of which he voted. It belonged to a company, in which he was a shareholder, and that was his only interest in it; and Homer Doupe's vote was admittedly bad.

The by-law was carried by a majority of four only, and, these five votes being bad, it follows that it did not receive the assent of the majority of the voters and must be quashed.

The appeal will, therefore, be allowed, and there will be substituted for the order of the learned Chief Justice an order quashing the by-law with costs, and the respondents must pay the costs throughout.

GILLIES v. MCCAMUS—MASTER IN CHAMBERS—JUNE 22.

Jury Notice—Motion for Leave to File — Delay — Judicature Act, sec. 203.]—Motion by the plaintiff for leave to file a jury notice. The cause had been at issue for two years, and no steps had been taken to bring it to trial. The plaintiff's claim was for cancellation of a promissory note given on the 11th October, 1906, by the plaintiff to the defendants and for recovery of the proceeds of certain shares of stock transferred as security for payment of the note, which were sold by the defendant when the note matured and was not paid. Held, that the motion failed, for the reasons given by Riddell, J., in Hall v. McPherson, 13 O. W. R. 929, 931. Even if it was doubtful whether sec. 103 of the Judicature Act applied, the delay had been too great. It did not seem to be a case which a Judge would try with a jury. Motion dismissed; costs to the defendants in the cause. C. J. Holman, K.C., for the plaintiff. R. McKay, for the defendants.