

The defendant O. by a counter-claim asked for damages, being the value of a crop in the ground and deprivation of possession of the land for a year or more, but a reference to assess these damages was refused. The plaintiffs and the defendant O. were allowed costs out of the estate, except that the defendant O. was ordered to pay the costs occasioned by charges made by him of fraud and collusion; no costs were allowed to or against the defendant A. O'N.

W. R. Meredith, Q.C., and T. G. Meredith for the plaintiffs.

M. D. Fraser and R. M. Meredith for the defendant Owen.

The defendant Albert O'Neill in person.

ROSE, J.] [June 8.
IN re CROFT AND TOWN OF PETERBOROUGH.

Municipal corporations—By-law—Submission to electors—Liquor License Act, R.S.O., c. 194, s. 42—"Electors," meaning of.

S. 42 of the Liquor License Act, R.S.O., c. 194, provides for the Council of any municipality passing a by-law requiring a larger duty to be paid for tavern or shop licenses than is imposed by s. 41, "but not in excess of \$200 in the whole, unless the by-law has been approved by the electors in the manner provided by the Municipal Act with respect to by-laws which, before their final passing require the assent of the electors of the municipality."

A municipal council having submitted to the electors and passed a by-law providing for a larger duty than \$200, a motion was made to quash it on the ground that certain leaseholders had not been allowed to vote upon it, it being assumed by the council that s. 309 of the Municipal Act, R.S.O., c. 184, governed as to the votes of leaseholders.

Held, that s. 309 did not apply; and that the word "electors" in s. 42 must be read as referring to the same class as "electors" in s-s. 14 of s. 11 of R.S.O., c. 194, viz.: those entitled to vote at an election for a member of the Legislative Assembly; and the reference to the Municipal Act in s. 42 must be confined to the manner of holding the election.

The by-law, not having been submitted to or approved by the electors according to this interpretation of the statute, was quashed with costs.

Poussette, Q.C., for the plaintiff.

E. B. Edwards for the town of Peterborough.

ROSE, J.] [May 17.

WYLIE v. FRAMPTON.

Married woman—Conveyance of real estate—Necessity for joining husband—Tenancy by the curtesy initiate—R.S.O., c. 132, s. 4, s.s. 2, 3—Order under 51 Vict., c. 21.

The question in this action was whether the husband of the plaintiff was entitled to a tenancy by the curtesy initiate in certain land of the plaintiff which she agreed to sell to the defendant, so as to require the joining of the husband in the conveyance.

The marriage took place in 1867, and issue had been born alive. The land was acquired by the plaintiff, one portion in 1879, and the remainder in 1882.

Held, that the case was governed by R.S.O., 1877, c. 125, s.s. 3 and 4, the same as s-s. 2 and 3 of s. 4 of R.S.O., 1887, c. 132, and the land could not be conveyed by the plaintiff alone, unless by virtue of an order under 51 Vict., c. 21, so as to give the purchaser a title free from the husband's claim; and under the circumstances of this case such an order was made.

Semble, the wife could convey her own estate in the land.

Re Konkle, 14 O.R. 183, and *Adams v. Loomis*, 24 Gr. 24, considered.

Schoff for plaintiff.

E. D. Armour for defendant.

STREET, J.] [June 17.

Re RICHARDSON AND CITY OF TORONTO.

Re HOSPITAL TRUST AND CITY OF TORONTO.

Municipal corporations—Expropriation of lands—Compensation to owners—Method of estimating—Benefit to lands not taken—Special Assessment—49 V., c. 66.

Under the authority of 49 Vict., c. 66, the City of Toronto expropriated the land of private persons near the River Don for the purposes of "the Don Improvement Scheme." By the Act the City Council were to make a survey and plan of the 400 feet on each side of a certain line called "the centre line," shewing the lands taken by them, and were to apportion to each lot shewn upon the plan a due share of the whole