

HON. MR. JUSTICE RIDDELL.

NOVEMBER 12TH, 1912.

WEEKLY COURT.

RE ROBERTSON v. TOWNSHIP OF COLBORNE.

4 O. W. N. 274.

Municipal Corporations—By-law—Establishing Telephone System—Motion to Quash—2 Geo. V., ch. 58—Two Competing Systems—Petition—Authority to Depart from—Discretion of Council—Endeavour to Withdraw—Practice of Councils—Time of Signing and Sealing By-law—Resolution of Indemnity—Charge of Partisanship.

Motion to quash a by-law of the township of Colborne establishing a municipal telephone system under the Ontario Telephone Act, 2 Geo. V., ch. 58. The objections to the by-law were numerous and are set out in the judgment.

RIDDELL, J., dismissed motion with costs.

"A by-law need not be signed at a council meeting, signing and sealing afterwards being quite sufficient."

Brock v. T. & N. R. Co., 17 Gr. 425, at p. 434; *McLellan v. Assiniboin*, 5 Man. R. 127, referred to.

Application to quash a by-law (No. 2 of 1912), passed by the respondent on the 27th of April last, to raise \$4,840 to pay for the cost of construction and installation of a telephone system, known as, "The Municipal Telephone System of the Township of Colborne." Also to quash the following resolution passed on the same day, namely: "And that a by-law be passed providing that, 'The Municipal Telephone System of Colborne' pay law costs or other expenses that may be incurred by the township with the passing of by-law No. 2."

W. Proudfoot, K.C., for the motion.

G. F. Shepley, K.C., for the township.

HON. MR. JUSTICE RIDDELL:—The history of the matters in question is about as follows: Prior to the month of April, 1910, a joint stock company known as, "The Goderich Rural Company," had procured from the said township a franchise to operate a telephone system in the township. In the month of April, 1910, it was understood that said company was not going to take advantage of said franchise, and a number of the ratepayers, desirous of having a telephone system established, on May 10th, 1910, presented a petition and agreement to the township council praying that a telephone system