

aid to that amount to the St. Marys and Western Ontario Railway Co.

The by-law was voted upon on the 21st May, 1909, and was carried by a substantial majority of the ratepayers to whom it was submitted.

The objection chiefly relied upon was that the voting was not upon a list of voters based upon the last revised assessment roll, as required by sec. 348 of the Consolidated Municipal Act, 1903. It was undisputed that the assessment roll for 1909 was duly returned to the township clerk on the 30th April; that the Court of Revision sat on the 18th May; and the voting took place on the 21st May.

C. C. Robinson, for the applicant.

J. C. Makins, for the township corporation.

TEETZEL, J.:—Section 65 of the Assessment Act, 4 Edw. VII. ch. 23, provides for notices of appeal against the assessment roll to the Court of Revision being given within fourteen days after the return of the roll.

The last day for appealing was therefore on the 14th May.

Section 61 of the Assessment Act provides that the first sitting of the Court of Revision shall not be held until after the expiration of at least ten days from the expiration of the time within which notices of appeals may be given to the clerk of the municipality. The Court could not, therefore, have legally held its first sitting before the 24th May, which was three days after the voting. See *Tobey v. Wilson*, 43 U. C. R. 230.

I think the objection must be sustained. The Court of Revision is a judicial body appointed by the Act, and contains its whole jurisdiction from the provisions of the Act. It seems to me clear, therefore, that it was acting entirely beyond its jurisdiction in assuming to sit and adjudicate at a time prohibited by the statute, and that anything assumed to be done at such sitting would be entirely void, and that the assessment roll which it purported to revise was not the last revised assessment roll of the municipality at the time of the election, within the meaning of sec. 348; but that the last revised assessment roll would be that of the previous year.

Mr. Makins invoked the curative provisions of sec. 204 of the Municipal Act, but I think it is impossible to apply that section in support of this by-law, for it cannot be said that the disregard of the positive requirements of the statute by the Court of Revision was an unsubstantial act or omission.

It seems to me that the objection is fundamental and is not within the category of irregularities contemplated by sec. 204.