

SUTHERLAND, J.

DECEMBER 28TH, 1918.

\*BURLINGTON PUBLIC SCHOOL BOARD v.  
TOWN OF BURLINGTON.

*Municipal Corporations—Money By-law—Request of School Board for Sum for Purchase of Site and Erection of School—Submission to Electors—Vote Negating Request—Renewed Request—By-law Passed by Town Council for Submission to Electors of Original Question and two Others—Duty of Council under sec. 43 of Public Schools Act, R.S.O. 1914 ch. 266—Municipal Act, R.S.O. 1914 ch. 192, sec. 398 (10).*

Motion by the plaintiffs for an interim injunction restraining the defendants from submitting to the electors entitled to vote on money by-laws, certain questions in relation to the providing of funds for school and site purposes for the Port Nelson district of the town. The questions to be submitted were the following:—

- (1) Are you in favour of school and site to cost \$30,000?
- (2) Are you in favour of school on old site to cost \$23,000?
- (3) Are you opposed to new school?

The plaintiffs objected to questions 2 and 3.

The motion was heard by SUTHERLAND, J., in the Weekly Court, Toronto.

George Lynch-Staunton, K.C., for the plaintiffs.

William Laidlaw, K.C., for the defendants.

SUTHERLAND, J., in a written judgment, said, after stating the facts, that the grounds set out in the notice of motion were: (1) that it was the duty of the council to submit the question of passing a by-law for borrowing \$30,000, as required by the plaintiffs; (2) that the passing of by-law 372 on the 20th December, 1918, and the submitting of the three questions (as above) set forth in that by-law, was not a compliance with the duty of the defendants under sec. 43 of the Public Schools Act, R.S.O. 1914 ch. 266; (3) that it was improper for the defendants to submit questions 2 and 3, as the electors would thereby be misled and influenced to answer "no" to question 1; (4) that the questions submitted were so drawn as to preclude any true expression of the views of the electors upon the question which the plaintiffs asked to have submitted; and (5) that the questions were not being submitted to the vote of the electors in the manner provided by the Municipal Act.

The first question had already been submitted to the electors, and a majority voted "No." The plaintiffs asked the defendants