

I think, therefore, that the Master's judgment should be restored on this point. But the difficulty has arisen in the determination of the fact through the negligence (to use no harsher term) of the appellant, and he should have no costs here or below.

Appeal allowed with costs; RIDDELL and LEITCH, JJ., dissenting as to costs.

NOVEMBER 10TH, 1913.

RE NORTH GOWER LOCAL OPTION BY-LAW.

Municipal Corporations—Local Option By-law—Voting on—Qualifications of Voters—Scrutiny by County Court Judge—Deduction of Votes from Total and from Majority—Premature Final Passing of By-law by Council—Absence of Prejudice—Deputy Returning Officer—Interest—Bias—Ballots Marked for Incapacitated Voters—Neglect to Require Declarations—Municipal Act, sec. 171—Irregularity Cured by sec. 204—Names Added to Voters' List by County Court Judge—Voters' Lists Act, secs. 21, 24—Irregularities in Procedure—Certificate of Judge—Finality.

Appeal by the applicant from the order of KELLY, J., 4 O.W.N. 1177, refusing to quash the by-law.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, and LEITCH, JJ.

F. B. Proctor, for the appellant.

C. J. Holman, K.C., for the Corporation of the Township of North Gower, the respondents.

The judgment of the Court was delivered by SUTHERLAND, J.:—The vote on the by-law, as stated in the declaration of the Reeve, was as follows: "297 for and 192 against (total 489)"; and the by-law, on that shewing, was apparently passed by four and one-fifth votes beyond the necessary three-fifths. A recount and scrutiny of the ballots followed before the County Court Judge, with the result that the figures were altered to 295 for and 192 against the by-law (total 487). The Judge also decided that four persons who had voted had not the necessary qualifications, and he deducted these four votes, mak-