

the contract, the defendants cannot, upon a contract of this kind, avoid its obligation to pay.

The old rules are to some degree relaxed, and, as is said by an English Judge, "People can contract to do anything" (per Fletcher Moulton, L.J., *Perry v. National Provincial Bank of England*, [1910] 1 Ch. 464, 476); and it is now entirely a question of the intention of the parties to the contract: *Clergue v. Vivian*, 41 S. C. R. 601.

The appeal fails and should be dismissed with costs.

DIVISIONAL COURT.

JUNE 29TH, 1910.

*RE DALE AND TOWNSHIP OF BLANCHARD.

Municipal Corporations — Money By-law—Voting on — Voters' List—Assessment Roll—Municipal Act, 1903, secs. 348, 349—Amending Acts—Proper List not Used—Inquiry into Right to Vote of Persons Named in List—"Freeholders"—Municipal Act, sec. 353—Equitable Interests in Land—Disallowance of Votes—Quashing By-law.

Appeal by William Dale from the order of MULOCK, C.J.Ex.D., ante 729, dismissing a motion made by the appellant to quash a by-law granting \$20,000 in aid of a railway.

The appeal was heard by MEREDITH, C.J.C.P., TEETZEL and MIDDLETON, JJ.

C. C. Robinson, for the appellant.

J. S. Fullerton, K.C., and J. W. Graham, for the township corporation.

The judgment of the Court was delivered by MEREDITH, C.J.:
— . . . In the view we take, it is unnecessary to express an opinion upon any of the grounds urged against the by-law except two, viz.: whether (1) the voters' list upon which the voting took place is, by force of sec. 24 of the Voters' Lists Act, or for any other reason, conclusive as to the right of the persons named in it to vote on the by-law; and whether (2), if it is not conclusive as to their right to vote, the appellant has succeeded in establishing that a sufficient number of unqualified persons voted to overcome the majority which was cast in favour of the by-law.

* This case will be reported in the Ontario Law Reports.