

MEREDITH, J.A., gave reasons in writing for arriving at the same conclusion.

MOSS, C.J.O., and MACLAREN and MAGEE, J.J.A., concurred in dismissing the appeal.

HIGH COURT OF JUSTICE.

DIVISIONAL COURT.

MAY 27TH, 1911.

RE STURMER AND BEAVERTON.

Municipal Corporations—Local Option By-law—Motion to Quash—Residence—Abandonment of, What Constitutes—Constructive Residence—Animus Revertendi—Irregularities not Affecting Result—Laches and Acquiescence—Curative Provisions of sec. 204 of Municipal Act.

Appeal by the applicant Henry Sturmer from the judgment of MIDDLETON, J., ante 1116, on a motion to quash a local option by-law.

The appeal was heard by BOYD, C., TEETZEL and LATCHFORD, JJ.

J. B. Mackenzie, for the appellant.

W. E. Raney, K.C., for the respondent corporation.

BOYD, C.:—"Residence" is a word of flexible import, and as said in *Naef v. Mutter*, 12 C.B.N.S. 816, at p. 821, has a great variety of meanings according to the subject-matter and the objects and purposes of the legislature. In a poor-law case *Blackburn, J.*, said: "I do not like the phrase 'constructive residence': when a person is physically absent for a time, if he has an *animus revertendi*, his residence continues; and the question in such a case is whether he continues to be resident, or has ceased to be resident by taking up his permanent residence elsewhere": *Regina v. Abingdon*, L.R. 5 Q.B. 406, at p. 409.

In a franchise case, *Ford v. Hart*, L.R. 9 C.P. 275, it is held that there may be a constructive residence where there is no actual residence, the person claiming in this way must have the liberty of returning, and also the intention of returning when-