

# The Ontario Weekly Notes

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No. 15

## HIGH COURT DIVISION.

FALCONBRIDGE, C.J.K.B.

JUNE 17TH, 1918.

### RE BUTTERWORTH AND CITY OF OTTAWA.

*Municipal Corporations—By-law Requiring Weighing of Coal or Coke—Power of Council to Pass—Municipal Act, sec. 401, clause 13 (8 Geo. V. ch. 32, sec. 8 (1))—"With the Approval of the Municipal Board"—Approval Given after Passing of By-law—Validity of By-law.*

Motion to quash by-law No. 4522 passed by the Municipal Council of the City of Ottawa, under the powers given by clause 13 of sec. 401 of the Municipal Act, R.S.O. 1914 ch. 192. Clause 13 was added by sec. 8 (1) of the Municipal Amendment Act, 1918, 8 Geo. V. ch. 32. Section 401 provides that by-laws may be passed by the councils of urban municipalities for a number of purposes set out in 10 clauses; and the amending Act adds several clauses. No. 13 reads: "With the approval of the Municipal Board . . . for requiring all persons who . . . deliver coal or coke within the municipality, by a vehicle, . . . to have the weight of such vehicle and of such coal or coke ascertained prior to delivery . . ."

The motion was heard in the Weekly Court, Ottawa.

T. McVeity, for the applicant.

F. B. Proctor, for the city corporation.

FALCONBRIDGE, C.J.K.B., said, in a written judgment, that the objection to the by-law was, that it was not passed with the approval of the Municipal Board, as required by clause 13, supra.

Since the argument of this motion the by-law had received the approval of the Board; but the applicant contended that such approval should have preceded the passing of the by-law.