

MIDDLETON, J.

MAY 9TH, 1918.

## RE GARRETT AND TOWN OF BARRIE.

*Municipal Corporations—By-law to Provide Money for Erection of High School Building—Requisition by Board of Education—Disapproval by Municipal Council—Submission to and Disapproval by Electors—Fresh Requisition—Approval by Council—Right of Council to Reconsider—Motion to Quash By-law—Requisitions not Absolutely Identical—High Schools Act, R.S.O. 1914 ch. 268, sec. 38.*

Motion by R. F. Garrett for an order quashing a by-law of the Town of Barrie.

The motion was heard in the Weekly Court, Toronto.

Leighton McCarthy, K.C., for the applicant.

J. B. Clarke, K.C., for the Corporation of the Town of Barrie.

MIDDLETON, J., in a written judgment, said that the school building of the Collegiate Institute of the Town of Barrie was burned, and \$50,000 received for insurance. It then became a question of change of site, and a vote was taken on the question in January last, resulting in the choice by a large majority of electors of a site already owned by the town corporation.

The board of education then asked two things of the council: (1) a conveyance of the site; (2) \$58,644, which, with the \$50,000 in hand, would cover the cost of the new building.

The board asked the council, "if you deem it necessary to do so," to submit a by-law to the electors.

The council disapproved of this application, and submitted the question to the electors, with the result that the by-law was defeated by a small majority.

In the meantime there had been some trouble over the site, but this was ultimately arranged, and the board of education made another requisition, this time for \$59,239—the increased amount representing the cost of removing some buildings from the site as a result of the arrangement made.

This requisition commending itself to the majority of the council, a by-law was passed to raise the money.

This by-law was attacked upon the ground that, when the council has disapproved of the demand of the board of education and has sent the question to the electors, it cannot reconsider its action. But this is not the effect of the statute.