

[Reference to Lowery v. Walker, [1909] 2 K.B. 433, [1910] 1 K.B. 173, [1911] A.C. 10, 12, 14; 27 Law Quarterly Review, pp. 273, 274; Grand Trunk R.W. Co. v. Barnett, [1911] A.C. 361, 369, 370; Great Northern R.W. Co. v. Harrison, 10 Ex. 376; Lygo v. Newbold, 9 Ex. 302; Murley v. Grove, 46 J.P. 360; Bist v. London and South Western R.W. Co., [1907] A.C. 209; Deyo v. Kingston and Pembroke R.W. Co., 8 O.L.R. 588; Grand Trunk R.W. Co. v. Birkett, 35 S.C.R. 296; Markle v. Simpson Brick Co., 9 O.W.R. 436, 10 O.W.R. 9; D'Aoust v. Bissett, 13 O.W.R. 1115; Bondy v. Sandwich Windsor and Amherstburg R.W. Co., 2 O.W.N. 1476, 24 O.L.R. 409.]

An attempt was made upon the argument to bring this case within Lowery v. Walker; but the facts, on the evidence, are not at all like those in that case. Glass, a carpenter, saw no one on the "Huronie" but his own little boy and apparently an occasional visitor; and there is no evidence that the defendants or their officers knew anything of these. Mr. West went to visit Captain Glass on the "Huronie" as a casual visitor; but there is nothing to shew that the defendants knew anything of it. I can find nothing to indicate that the defendants gave an implied license to the public or any member thereof or to King to enter upon their steamer "Huronie;" and I am of opinion that the action fails.

The appeal should be allowed, the cross-appeal dismissed, and the action dismissed—all with costs.

FALCONBRIDGE, C.J., and BRITTON, J., agreed in the result.

MASTER IN CHAMBERS.

OCTOBER 31ST, 1911.

REX EX REL. WARNER v. SKELTON.

*Municipal Election—Proceeding to Set aside—Death of Relator
—Dismissal of Motion—Costs—Recognizance.*

After the judgment in this case, reported in 23 O.L.R. 182, the relator elected to proceed against the respondent Skelton only, and the order issued on the 13th February, 1911, gave costs of the appeal to the respondents in any event, and gave costs of the proceedings to the respondent Woods forthwith after taxation.

Nothing had been done since in the matter except that the costs of the respondent Woods were taxed at \$53.10.