

in the statute. *Ostrom v. Sydney*, 15 O. R. 43, and *Cross v. Gladstone*, 15 Man. L. R. 328, are not in point. *Re Rickey and Township of Marlborough*, 9 O. W. R. 930, does not assist upon this question in any way favourable to the attack upon the by-law. It seems to have been considered that a first publication on the 14th December, followed by polling day 7th January, would answer if the publication in other respects were regular. I adhere to the opinion in the *Armour* case.

Objection 3, that the council were not a lawfully constituted body when finally passing the by-law is fully met by the case *Re Vandyke and Village of Grimsby*, 12 O. L. R. 211, 7 O. W. R. 739, 8 O. W. R. 81. See *Re Armour and Township of Onondaga*, 9 O. W. R. at p. 838.

Objection 4, that the council had no knowledge of the by-law having been carried by a majority of votes, when assuming to finally pass it, is answered in the early part of the judgment, where it is considered that the validity or otherwise of the final passing by the council depends upon the fact of the vote having been cast—even though the fact be as stated in the objection, which cannot be said to be proved in view of the affidavit of the clerk.

Objection 5. The same ballot boxes, poll books, and voters' lists were made use of on the concurrent votings for water and light commissioners and public school trustees, and said by-law. The statute does not forbid this; I cannot find that it is contra-indicated; and the case about to be mentioned indicates that the practice is unexceptionable.

Objection 6. No voters' lists, as required by the statute, were prepared or supplied to the deputy returning officer. This is met by *Re Sinclair and Town of Owen Sound*, 12 O. L. R. 488, 8 O. W. R. 239, 298, 460, 974, which shews the very wide application of sec. 204—even if there were a defect, which I am far from asserting.

Objection 7. The voters' list for polling sub-division No. 3 contained more than the lawful number of names.

The voters' list for this subdivision contains more than 300, but not more than 400, names of voters, and it is argued that 3 Edw. VII. ch. 19, secs. 535, 536, apply, so as to render this a fatal error. I do not think so. Sub-section (12) of sec. 536 gets over the difficulty; and, at the worst, sec. 204 is applicable: *Re Sinclair and Town of Owen Sound*, *supra*.

Objection 8. That no deputy returning officer was legally authorized to conduct the polling.