

Upon the argument I expressed grave doubt whether the Court should enjoin the acts of a de facto council, though the legality of the election is questioned in pending proceedings. Further consideration has satisfied me that this view is correct. At the same time, the impropriety of municipal councillors seeking to force through such important legislation as a license reduction by-law while the validity of their election is seriously questioned in pending proceedings, and when there would in all probability be time to pass the by-law after the determination of such proceedings, if determined in their favour, seems to me not open to question.

For these reasons, I think that, while the plaintiff's action should be dismissed, it should be dismissed without costs. If both parties consent, this disposition may now be made of the matter. If not, either party refusing to consent may have the case taken down to trial to dispose of the question of costs, because that alone is now in issue, but he will do so at the peril of being mulcted in the entire costs of the action.

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LATCHFORD, J.

FEBRUARY 18TH, 1909.

WEEKLY COURT.

McCARTHY v. McCARTHY.

(TWO ACTIONS.)

*Account—Claims and Cross-claims—Legacy—Conversion of Shares in Company—Insurance Policies—Reference to Master—Evidence—Report—Interest—Costs—Counterclaim.*

Appeal by plaintiff from reports of local Master at Ottawa.

O. E. Culbert, Ottawa, for plaintiff.

H. Fisher, Ottawa, and P. K. Halpin, Prescott, for defendant.

LATCHFORD, J.:—These actions are between the same persons. One was begun on 19th March, 1906, and is called