

and, having then substituted Hough as the appellant, decided the issue raised in that appeal.

Section 33 of the Voters' Lists Act is: "If an appellant . . . is found not to be entitled to be an appellant, the Judge may, in his discretion, allow any other person who might have been appellant . . . to intervene and prosecute the appeal . . . upon such terms as the Judge may think just."

The applicant relied on the decision in *Re West York Voters' List* (1907), 15 O.L.R. 303. In that case the appellant was, as stated, not qualified to appeal, and the decision proceeded upon that fact, and it was nowhere suggested that his name was in fact upon the voters' list.

Here Snell was upon the voters' list, and so within the definition given in sec. 15 (1) of the Voters' Lists Act. He had been, during the pendency of the appeal, found by the Judge not to be entitled to be an appellant, and Hough had consequently been substituted.

The West York case was inapplicable, in view of the amendment which came into force at the session following its decision (8 Edw. VII. ch. 33, sec. 6, amending the Voters' Lists Act, 7 Edw. VII. ch. 4, sec. 33), nor could the present statute be read except as authorising what the learned County Court Judge did.

For this reason the learned Justice of Appeal said, he thought that he ought to give no directions, as, if he did, it would result in bringing before a Divisional Court a question which it was really unnecessary, in his view, to ask.

The applicant expressly disclaimed any intention of attacking the learned County Court Judge's judgment on the appeal, which involved, among other things, the meaning of the words "legal or equitable freeholder," in the Municipal Act; so that this decision was solely concerned with the power of the Judge under sec. 33.

The applicant must pay the costs if they were exigible under the Judge's Orders Enforcement Act, R.S.O. 1914 ch. 79.