

The principles applicable are: that such a by-law shall not be finally enacted without the assent of the qualified voters of the municipality first given at a poll taken for the purpose of obtaining such assent. It was not any principle of the Act that was disregarded: it was a disregard only of one of the requirements of the Act regarding the mode in which such principle should be carried into effect: and there was no evidence that the non-compliance, strictly, with the prescribed manner of publication, affected the poll. All that was deposed to, on this branch of the case, was that the applicant, from information received by his solicitor from the village clerk, had reason to believe, and believed, that the number of qualified voters was 226, while only 132 voted. But the applicant also deposed to his belief that ratepayers abstained from voting, for another reason stated by him: in a village, such as L'Original, it is hardly possible that such a poll could have been taken without knowledge of it by all the voters who would have had notice of it through a publication in the local weekly newspaper: and there was no evidence of any want of such knowledge by any one concerned. Effect could not be given to the attack upon the by-law on this ground.

As to the other ground: the by-law was one for raising money for the improvement of highways, including the erection of a bridge, part of a highway, all in the village: \$4,000 for the roads and \$2,000 for the bridge; and the applicant's contention was, that the two sums could not lawfully be raised upon the one by-law; that some of the voters might desire to vote for raising one sum and against raising the other, and that there was no power to deprive them of the right to do so. That contention, however, could not succeed, for the by-law was not, nor was the scheme, that of the applicant, or of the voters; it was the scheme and the by-law of the council, which none but the council could alter, though a scheme and a by-law which the voters might defeat. The council might, in their discretion, thus improve the roads and re-erect the bridge—which was part of a highway—or else do neither. There was no power in any one to compel them to divide their scheme. If the electors wished that done against the will of the council, the one way to bring it about was to elect a council that would comply with their wishes—when they had an opportunity. There was, however, no evidence, of any kind, that a majority of the electors had any such desire; and it might well be that the scheme should be carried out in its entirety or not at all: but that was now a question for the council only.

Taprell v. City of Calgary (1913), 10 D.L.R. 656, commented on and distinguished.

The fact that the legislation there in question, as well as that