

RE GOBLE—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—APRIL 7.

Death—Presumption — Declaration—Evidence.]—Motion by executors for an order declaring William Goble, who has not been heard of for many years, to be dead. Held, that the Court should be chary in making such order. Further affidavits to be filed. If an order is eventually made, a bond to refund moneys paid out, in the event of the return of the absentees, will be required. J. G. Wallace, for the executors. Peter McDonald, for Emma N. Carey and May Goble.

RE COPEMAN AND VILLAGE OF DUNDALK—FALCONBRIDGE, C.J.—
APRIL 7.

Municipal Corporations—Local Option By-law—Voting on—Voters Deprived of Votes by Improper Tender of Oath—Majority not Affected—Third Reading of By-law—Prevention of Scrutiny.]—Application by George Copeman to quash a local option by-law on various grounds of objection. (1) While the first objection was not formally abandoned, it was insisted on only with reference to the case of one Tryon, who left the municipality in November. (2) The second objection was: "That the returning officer required . . . certain persons who presented themselves to vote . . . to take certain oaths before giving them ballot papers, and that the oaths so required . . . were not authorised by law, and the said persons were therefore illegally prevented from voting, and the voting was therefore not conducted in the manner prescribed by the Consolidated Municipal Act, 1903, and amendments thereto." The Chief Justice did not consider it necessary to enter into the question whether the bribery clauses applied to voting on local option by-laws. The applicant, in order to succeed, admittedly must take off five of the votes cast in favour of the by-law. Giving him the benefit of the Tryon vote, it would be necessary for him to shew that four others (named) were prevented from casting their votes by the action of the returning officer in presenting to them the oath prescribed for voters in municipal elections, which oath they refused to take. As to one of these four, Walter Howes, the case was not proven; and the objection failed. (3) The third objection was that dealt with in *In re Duncan and Town of Midland*, 16 O. L. R. 132. It does not appear as a result of the judgments in that case that the fact that a scrutiny was applied for here alters the effect of the judgment. (4) The fourth objection was not pressed. Motion dismissed with costs. J. Haverson, K.C., for the applicant. W. E. Raney, K.C., and I. B. Lucas, K.C., for the village corporation.