

HON. MR. JUSTICE KELLY.

APRIL 26TH, 1913.

RE NORTH GOWER LOCAL OPTION BY-LAW.

4 O. W. N. 1177.

Municipal Corporations—Local Option By-law—Motion to Quash — Passage within One Month of Publication—Deputy Returning Officer Strong Advocate of By-law—Illiterate Voter — Blind Voter—Omission to take Declaration—Consolidated Municipal Act, ss. 171, 204—Voters' List—Certificate of County Judge as to—Refusal to go behind—Costs.

KELLY, J., *held*, upon a motion to quash a local option by-law that where no one had been prejudiced thereby the fact that the by-law had been passed within a month from the first publication thereof, by a few hours only, was not a fatal objection to the same.

Re Duncan and Midland, 16 O. L. R. 132, followed.

That the fact that one of the Deputy Returning Officers was a strong advocate of the passage of the by-law was not a disqualifying circumstance.

That the omission of an illiterate person to take the declaration provided by section 171 of the Municipal Act is a mere irregularity in the mode of taking the vote and does not avoid the same.

Re Ellis and Renfrew, 23 O. L. R. 427, followed.

That the certificate of the County Judge as to the correctness of the revised voters' list should not be gone behind and the steps investigated by which he arrived at his conclusion.

Ryan v. Alliston, 18 O. W. R. 131, followed.

Application to quash a local option by-law.

F. B. Proctor, for the applicant.

G. F. Henderson, K.C., and George McLaurin, contra.

By the notice of motion the applicant rests his case on six objections:—

1. That the by-law did not receive a three-fifths majority of the votes of the duly qualified voters.

2. That the voting upon the by-law was not conducted in accordance with the provisions of the Municipal Act, and of the Liquor License Act, and that persons were allowed to vote, whose names did not appear upon the last revised Voters' List of the municipality as persons qualified to vote at municipal elections.

3. That unauthorized names were entered upon the list of voters used in voting upon the by-law, which names had not been entered upon the list of voters in accordance with the provisions and requirements of sec. 17 and subsequent sections of the Ontario Voters' Lists Act.