

SEPTEMBER 29TH, 1904.

## DIVISIONAL COURT.

## RE MCLEOD AND TOWN OF EAST TORONTO.

*Municipal Corporations—Annexation of Town to City—Petition for Submission of By-law—Numbers and Qualifications of Petitioners—Delegation—Withdrawal of Names—Addition of Names—Mandamus—Time.*

Appeal by town corporation from order of ANGLIN, J., ante 26, directing the appellants to submit to the ratepayers a by-law for the annexation of the town to the city of Toronto.

W. Proudfoot, K.C., for appellants.

W. E. Middleton, for Alexander McLeod.

THE COURT (MEREDITH, C.J., MACMAHON, J., TEETZEL, J.) dismissed the appeal with costs, but modified the order by extending the time for taking the vote of the electors for 4 weeks from 3rd October, 1904, and by adding that nothing contained in the order is to interfere with the right, if any, of the council to act under secs. 336, 337, and 337a of the Municipal Act.

---

 SEPTEMBER 29TH, 1904.

C.A.

## BOYLE v. CITY OF GUELPH.

*Way—Non-repair—Injury to Traveller—Death—Action by Widow—Negligence of Municipal Corporation—Dangerous Condition of Highway—Open Ditch—Proximate Cause of Injury—Contributory Negligence—Intoxication—Damages.*

Appeal by defendants from judgment of BRITTON, J., 3 O. W. R. 322. Cross-appeal by plaintiff for increased damages.

D. Guthrie, K.C., and W. R. Riddell, K.C., for defendants.

J. E. Day and J. M. Ferguson, for plaintiff.

THE COURT (MOSS, C.J.O., OSLER, MACLENNAN, GARROW, MACLAREN, J.J.A.), dismissed the appeal and cross-appeal, both with costs.