

the court, is from the *Globe* newspaper of October 29th last:—

Mr. Scott argued that the intention of the Legislature had been fulfilled. When the petition was filed in the one registry office, it was filed in a registry office within the county. Had the petition been filed in the sheriff's office there would have been no question about its being a legal filing, and the sheriff's and registrar's offices were but a few feet apart.

Chief Justice Ritchie—Then why in the name of common sense, was it not filed in the sheriff's office?

Mr. Scott argued that the convenience of the electors had been fully considered.

Mr. Justice Henry—Why should a man be compelled to travel outside his riding, or away from his registry office, in order to examine such petitions.

Mr. Scott pointed out that a petition lodged in the registry office at L'Original, in the County of Prescott, would be valid for the County of Russell.

Mr. Robinson replied briefly.

Chief Justice Ritchie, in giving judgment, said, that in such an important matter, involving the right of a certain class of persons, it was important that every provision of the law should be strictly complied with. This, he held, had not been done. The petition might have been deposited either in the sheriff's office, or in both the registry offices. He held that the filing in the one registry office was insufficient.

Mr. Justice Strong said there could be only one construction of the Act, and no argument could be advanced to sustain the validity of the filing. He was only surprised that it had been found necessary to resort to this court to obtain a decision upon such a question.

The other justices concurred.

A. H. F. L.

CANADA REPORTS.

ONTARIO.

(Reported for the LAW JOURNAL by A. H. F. LEFROY,
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QUEEN'S BENCH.

THE QUEEN V. ALEXANDER.*

Canada Temperance Act, 1878—Non-compliance with preliminary requirements—Day of voting—Certiorari—Conviction—Jurisdiction—41 Vict. c. 16, D. secs. 9, III.

Where the requirements of the Canada Temperance Act, 1878, as to the day of voting on the petition had not been properly complied with, held, on certiorari, that a conviction under it must be quashed, although the Act had been proclaimed in force by Order-in-Council.

[June 1, 1881.— Armour, J.]

This was a proceeding by way of certiorari to quash a conviction under the Canada Temperance Act, 1878 (41 Vict. c. 16 D.) The circumstances were as follows:—

A proclamation of the Governor-General-in-Council was issued under the above Act for the purpose of putting to the vote the adoption of a petition of certain electors of the County of Lambton for the bringing into force the second part of the Act, and May 29th, 1879, was fixed therein as the day on which the vote was to be taken (*Canada Gazette*, May 10, 1879).

It so happened that by proclamation of the Lieutenant-Governor of Ontario the same day had been fixed for holding the election for the Legislative Assembly for the West Riding of the County, and the said election accordingly commenced on that day, candidates being nominated, and a poll demanded and granted.

Sec. 9, sub-sec. 2 of the Act provides that "No polling of votes under this Act shall be held in any city, county or district, on the same day that any election may take place in such city, county or district for members to serve in the Parliament of Canada or in any of the Local Legislatures of the Dominion."

Nevertheless the voting under the proclamation of the Governor-General took place, and a majority being in favour of the adoption of the petition, the second part of the Act was, by Order-in-Council of June 12th, 1880, declared to be in force (Statutes of Can. 43 Vict. p. cxlviii, *Canada Gazette*, Vol. 13, p. 1,745).

* See Supra p. 374.