

HODGINS, J.A., IN CHAMBERS.

DECEMBER 13TH, 1916.

RE DUMONCHELLE AND VOTERS' LIST OF SANDWICH WEST.

*Parliamentary Elections — Ontario Voters' Lists Act, R.S.O. 1914 ch. 6, secs. 15 (1), 33, 40—Appeal to County Court Judge—Power to Substitute Voter as Appellant—Application to Judge of Divisional Court for Directions—Refusal to Give Directions because Question to be Raised not Proper for Consideration of Divisional Court—Costs—Judges' Orders Enforcement Act, R.S.O. 1914 ch. 79.*

Application by one Dumonchelle, a voter, for directions under sec. 40 of the Ontario Voters' Lists Act, R.S.O. 1914 ch. 6, looking to a hearing before a Divisional Court upon the question whether the Judge of the County Court of the County of Essex had power, upon an appeal to him under the Act, to substitute a voter as appellant.

H. A. Harrison, for Dumonchelle.

F. C. L. Jones, for Hough.

No one for the County Court Judge.

HODGINS, J.A., in a written judgment, said that the section was rather a peculiar one, but he entertained the application, as it seemed a more reasonable practice than requiring the voter to apply in the first instance to the Divisional Court. His only power, however, was to require security for costs and to direct upon whom notice should be served; and, if he declined to do this for any reason, he did not thereby shut out an application to a Divisional Court. He merely indicated his opinion; but, at the same time, that opinion should be the result of considering whether the question raised was one with which a Divisional Court should be properly occupied.

The applicant here desired to raise the point that the County Court Judge had no power to substitute Hough, a voter as to whom no objection could be taken, as appellant, in place of Snell, whom the learned Judge had held to be improperly upon the voters' list.

The County Court Judge, in a written judgment, had considered Snell's status as an appellant, had decided against him,