

the village council for prohibiting the sale by retail of intoxicating liquors within the village.

G. H. Watson, K.C., and P. K. Halpin, Prescott, for applicants.

W. E. Middleton, for village corporation.

MAGEE, J.:—Such by-laws in incorporated villages are authorized by sec. 141 of the Liquor License Act, R. S. O. 1897 ch. 245, but that section requires that before being finally passed they shall be duly approved of by the electors in the manner provided by the sections in that behalf of the Municipal Act.

Sections 338 to 374 of the latter Act prescribe certain proceedings for ascertaining the assent of the electors to by-laws for which it is a requisite, and of these sec. 351 directs that the proceedings at the poll and for and incidental thereto shall be the same, as nearly as may be, as at municipal elections, and makes secs. 138 to 178 and 180 to 206 applicable except in so far as otherwise provided.

This by-law was submitted to the electors on 2nd January, 1905, at the same time as the annual municipal elections, and was declared by the clerk to have been carried by a vote of 123 against 114, which figures, however, on a scrutiny of the ballots before the County Court Judge, were changed to 124 and 117 respectively, leaving a majority of only 7 in its favour. It was finally passed by the council on 9th January, 1905.

The applicants complain that the requirements of the Municipal Act were not complied with. They state 20 grounds. . . . Those urged may be classed under 8 heads:—

1. That no newspaper was designated by the council, as the Act requires, wherein the by-law should be published.

2. Non-appointment of one person to attend the polling on behalf of those interested on each side.

3. Persons being allowed to vote who were not so entitled.

4. Absence of a compartment wherein a voter could mark his ballot screened from observation.

5. Presence of other persons in the compartment with the voter.