

legality in the election of the members cannot be raised in a proceeding of this character.

Re Vandyke and Village of Grimsby (1906) 12 O.R. 211 referred to.

It need not appear on the face of the by-law that a scrutiny could be demanded.

J. B. MacKenzie, for applicant. *Breuster*, K.C., for township.

Boyd, C., Anglin, J., Magee, J.]

[May 28.

MOFFATT v. CARMICHAEL.

Costs—Scale of—Action for injury to land—Value of land—Easement—Disturbance of—Damages under \$200—Jurisdiction of High Court.

The defendant in the course of severing his house from that of the plaintiff's, which adjoined it, the two houses being built together as one building, by his negligence, damaged the plaintiff's house to the extent of \$140, for which he recovered judgment, the property itself was now worth over \$200.

Held, that the value of the property, and not the amount of the damages sustained, was the factor in determining the question of jurisdiction, so that the action was properly brought in the High Court, and the plaintiff entitled to tax his costs on the High Court scale. Order of CLUTE, J. affirmed.

Proudfoot, K.C., for appellant. *T. P. Galt*, for respondent.

Falconbridge, C.J.K.B., Britton, J., Riddell, J.]

[May 28.

ROMAN CATHOLIC EPISCOPAL CORPORATION v. O'CONNOR.

Will—Execution—Procurement by importunity—Setting aside—Construction—Life estate.

The testator had made a will on August 6, when he was very weak and ill. On August 9, when he was in the same condition, according to the medical evidence a condition in which he would do anything and give in anything for the sake of peace and quiet, he executed another will, upon the loud importunity of his sister, who was strong in body and will. He died August 13.