

The Ontario Weekly Notes

VOL. XV. TORONTO, NOVEMBER 29, 1918. No. 12

APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

NOVEMBER 19TH, 1918.

*RE BUTTERWORTH AND CITY OF OTTAWA.

Municipal Corporations—By-law of Urban Municipality Requiring Weighing of Coal or Coke—Power of Council to Pass—Municipal Act, sec. 401, cl. 13 (8 Geo. V. ch. 32, sec. 8 (1))—"With the Approval of the Municipal Board"—Approval Given after Passing of By-law—Motion to Quash By-law—Discretion—Costs.

Appeals by J. G. Butterworth from an order of FALCONBRIDGE, C.J.K.B., 14 O.W.N. 277, dismissing an application to quash a by-law of the City of Ottawa, and from an order of the Railway and Municipal Board approving of the by-law.

The appeals were heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, J.J.A.

T. McVeity, for the appellant.

F. B. Proctor, for the city corporation, respondent.

HODGINS, J.A., reading the judgment of the Court, said that the point of issue in both the appeals was the right of the municipal council to pass a by-law regulating markets and weighhouses without the previous approval of the Board.

The legislation which requires the approval of the Board is found in sec. 401, cl. 13, of the Municipal Act, as enacted by sec. 8 (1) of the Municipal Amendment Act, 1918, 8 Geo. V. ch. 32.

The disposition of the Courts is to interfere as little as possible with the exercise of the legislative functions of municipal

* This case and all others so marked to be reported in the Ontario Law Reports.