

The Ontario Weekly Notes

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TORONTO, NOVEMBER 8, 1912.

No. 8

HIGH COURT OF JUSTICE.

MIDDLETON, J.

OCTOBER 26TH, 1912.

STODDART v. TOWN OF OWEN SOUND.

Intervention—Application by Ratepayer for Leave to Intervene and Appeal on Behalf of Municipality—Decision of Council not to Appeal—Absence of Collusion or Improper Motive.

Motion by F. W. Millhouse, a ratepayer of Owen Sound, for leave to intervene and appeal, either in his own name or in the name of the defendants, and upon proper terms as to indemnity, from the judgment of LENNOX, J., ante 830.

W. E. Raney, K.C., for the applicant.

H. S. White, for the plaintiff.

Joseph Montgomery, for the defendants.

MIDDLETON, J.:—The action was brought by a ratepayer for the purpose of having it declared that the submission of a by-law to repeal a local option by-law in January last was, by reason of the failure to observe the provisions of the Municipal Act, a nullity, and does not operate to prevent the submission of a repealing by-law in January next, if the municipality see fit.

At the trial, judgment was given in the plaintiff's favour for the relief indicated.

The municipal council have considered the question of appealing from the judgment, and have determined to accept the decision. There is no suggestion that the decision of the council was arrived at from any other than proper motives. The resolution to acquiesce in the decision of the Court was moved by a