

The appeal should be allowed to the extent of reducing the award to a basis of \$335 a foot on the Peter street frontage of 218 feet, *i.e.*, one-half of a total of \$73,030, or \$36,615.

No costs of the appeal.

Following *Re Ketcheson and Canadian Northern Ontario R.W. Co.*, ante 36, the direction as to payment of interest should be stricken out of the award.

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\*RE LIQUOR LICENSE ACT.

*Liquor License Act—Local Option By-law—Voting on—Sec. 143a of Act (8 Edw. VII. ch. 54, sec. 11)—Application where By-law not Passed by Council.*

Case stated for the opinion of the Court by the Lieutenant-Governor in Council, pursuant to 7 Edw. VII. ch. 52, as to the meaning and effect upon the issue of licenses of sec. 143a of the Liquor License Act, as enacted by 8 Edw. VII. ch. 54, sec. 11.

The case was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A., and RIDDELL, J.

J. R. Cartwright, K.C., and W. E. Raney, K.C., were heard against the power to issue licenses.

J. Haverson, K.C., contra.

The judgment of the Court was delivered by MEREDITH, C.J.O. (after setting out sec. 143a at length):—It is clear, we think, that the section has no application to anything but a by-law properly so-called; that is, one that has been finally passed.

There is no proceeding by which a proposed or inchoate by-law can be quashed or set aside or be declared invalid. Proceedings of that kind can be taken only with respect to something that has, at all events *prima facie*, the force of law.

The steps taken with respect to a by-law submitted to the electors, which are mentioned in the section—the submission of the by-law to the electors and the declaration of the clerk or other returning officer that it has received the assent of three-fifths of the electors—are but steps, necessary ones, on the way to the passing of the by-law; and what is submitted to the electors and declared to have received the assent of three-fifths of those voting upon it, does not become a by-law until it is finally passed by the council.

\*To be reported in the Ontario Law Reports.