

whose duty it should be to examine it, and to report at the next meeting of council whether it was sufficiently signed, what real property would be benefited and the respective frontages, and the probable lifetime and probable cost of the sidewalk. A petition for the construction of a sidewalk as a local improvement was handed to the clerk, who examined it and came to the conclusion that it was signed by two-thirds of the owners. It was on the same day presented to the council, who resolved that the petition should be granted, and that the clerk should determine forthwith whether the petition was sufficiently signed. The clerk immediately reported that it was sufficiently signed and his report was received and adopted, but he did not report as to the other matters. The council then proceeded under section 672 to have the work done, and on its completion the clerk prepared, and certified to the correctness of, a schedule of the frontages and assessments, etc., and the council passed a by-law directing the assessment of the lands, and, subject to appeal to the Court of Revision, adopted the particulars set out in the schedule and directed notice to be given to the owners affected.

*Held*, that the assessment was valid, the clerk's failure to observe the provision as to reporting at the next meeting of the council being a mere irregularity and not a fatal objection.

Judgment of FALCONBRIDGE, C. J., affirmed.

G. G. McPherson, K. C., for the appellants. F. H. Thompson, for the respondents.

Osler, J. A.]

ROSS v. ROBERTSON.

[April 20.

*Appeal—Notice—Extending time.*

Under the present practice relief will be granted against a slip in practice, such as in this instance the failure to give notice of appeal in time, whenever the justice of the case requires it, and no injury to the opposite party which cannot be compensated for by costs or otherwise has resulted.

In considering what justice requires in such a case regard is to be had to the bona fides of the applicant; the delay, whether great or trifling, as affecting the question of prejudice to the opposite party; and, especially where the application is made after default, whether the appeal appears to be groundless or frivolous.

Where therefore a bona fide intention to appeal had been made out, the points raised were open to argument, and the delay was very short, no sittings of the court having been lost, leave to serve notice of appeal was given.

C. A. Moss, for applicant. Slaght, for defendant.