

MARKDALE STANDARD

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PETITION FOR LOCAL OPTION VOTE CAUSES COURT ACTION

JUDGE MORLEY HEARD EVIDENCE MONDAY

Solicitors for Interested Parties Present Arguments.—Much Interest in Local Case.—Decision Reserved by Presiding Judge.

At Owen Sound on Monday His Honor Judge Morley reserved his decision in the action brought by Miss Loretto Kelly of the Revere House, Markdale, against Mr. Johnson Lucas, Village Clerk, to void the vote taken on September 19th last, whereby Markdale came under local option, and the authority for the sale of beer and wine cancelled. The case occupied the whole day and the greater part of the afternoon was taken up with the arguments of the counsel in the case. Mr. W. D. Henry, K.C., of Owen Sound and Mr. D. L. Smith of Toronto, the latter acting for the Moderation League, were counsel for the plaintiff, while Mr. W. E. Harris of this place was counsel for Mr. Lucas and Mr. Chas. Leatherland represented the corporation.

The forenoon was devoted to the taking of evidence chiefly. Miss L. Kelley was the first witness called. Her evidence consisted entirely in a statement of fact that she and her mother had been granted the authority for their hotel. While her name had been left off the 1934 voters' list it was on the list used in taking this vote. She came back to Markdale in March of 1934.

Mr. Johnson Lucas was the next witness and he was examined with respect to the methods employed by him in taking the vote as he was the returning officer in charge. He identified the by-law passed by the Village Council providing for the taking of the vote after instructions had been received from the Liquor Control Board following the receipt by them of the petition containing 25 per cent. of the names on the voters' list. He said he had struck several names off the list as first presented to him as they were not on the assessment roll. The petition was filed in the second week in July and the election was held on Sept. 19. The Council, as a body, did not see the petition, this being unnecessary. He checked the list with the voters' list of 1934.

Mr. Henry went over a number of names in question and Mr. Lucas knew all of them personally and gave his reasons for the names being left off. There were a number of names left off in error, but this was in the Part III list, which is the Legislative Assembly list. Mr. Henry suggested that the assessment roll had been given to the printer for the preparation of the voters' list, but Mr. Lucas swore that this had not been done and that the roll had not been out of his keeping. He swore that of the 150 names on the petition 145 were qualified to vote, which was more than the necessary 25 per cent.

Mr. W. E. Harris went over a list of names on the list which are being questioned, and it appears that these names appear on the petition with first names given whereas on the list initials only are given, but in every instance Mr. Lucas swore that they were one and the same person.

Reeve T. H. Reburn gave evidence with regard to the presentation of the petition and stated that he had not seen it until it had come before the Council. He had not examined it. It had been presented after it had been passed upon by the Liquor Control Board. So far as he personally was concerned he was neutral on the question, but understood that the Council was compelled to pass the by-law when requested. He had not given the matter any very great thought and had not been asked to sign the petition.

Mr. Harold Borinsky, a member of the Council, said he had not seen the petition until it was presented after being passed on by the Liquor Control Board. He would not have considered passing a by-law to sub-

mit the question to a vote without a petition. He admitted that the cost to the municipality was a consideration.

Mr. J. R. Dillon, another member of the Council, took the same stand and declined to state what his personal attitude would be on the question.

Several of the ladies who assisted in the circulation of the petition gave evidence as to the authenticity of the signatures and to the first names of the signers. These witnesses were entirely voluntary and responded to a suggestion by Mr. C. Leatherland.

This closed the taking of evidence and the argument of the counsel was then heard.

In his contention that the vote should be nullified Mr. W. D. Henry claimed that the petition asking for the vote should have been presented to the Village Council and not to Mr. Lucas, the Clerk, and that the latter acted wrongly in not submitting the petition to the Council first for the purpose of checking over the names before sending it on to the Liquor Control Board, and then, after getting the sanction of the latter to have the vote taken, present the petition to the Council and inform them that they must pass the by-law. He was quite emphatic in his declaration that the wrong procedure was taken in the matter, and that Mr. Lucas assumed too much responsibility, while the Council was also said to have been negligent in permitting Mr. Lucas to do these things without instructions. Mr. Henry also claimed that the petition was not signed by 25 per cent. of the persons entitled to vote at elections to the Legislative Assembly, as it was not the last revised list, that twelve names had been omitted through an error on the part of the Assessor and that 32 other names had been omitted which had been on the revised list of 1934, although admitting that most of these names had been put back. His chief claim was that the list which should have been used was that used in the June election in 1934.

Mr. W. E. Harris, in his reply, pointed out that Mr. Lucas had not received a copy of the revised list of June, 1934, and maintained that the municipal list was the proper one to be used, and was used. He contended that the list used in the Provincial election of June, 1934, was antiquated the day after it was used, and that it was not intended to be used for any other purpose than the election for which it was used. He also pointed out that the list prepared by the Village Clerk, Mr. Lucas, was in accordance with the Municipal Act, and that he had no power to add names, but had left off 12 names through an error, but that even had these 12 names been on the list the petition would still have the necessary 25 per cent. of the qualified electors, with about 25 names to spare. With regard to the contention that the Provincial list should have been used Mr. Harris stated that that list was prepared for the South Grey election, and that this vote under the Liquor Control Act had nothing to do with any South Grey election, but concerned only the municipality of Markdale, and therefore only the municipal list should be used.

Mr. Harris also stated that there was no clause in the Liquor Control Act which made it imperative on the part of the Clerk to present the petition to the municipal council before checking it over and sending it on to the Liquor Control Board, but contended that it was the duty of the council to carry out the instructions of the Liquor Control Board after the petition had been sanction-

Mrs. Frederick Wilson Died in Toronto

Death came as a distinct shock to the friends and relatives of Mrs. Frederick Wilson when it became known that she had passed away at her home in Toronto on Saturday, Nov. 30th.

Deceased, whose maiden name was Julia Ann Catharine Meads, was the daughter of the late Ellen Griffin and John Meads and was born 74 years ago at Hamilton. When just three she moved with her parents to Grey County and settled on the Old Durham Road, on the farm now occupied by Mr. Will Meads jr. She attended the Durham Road school, later going to Toronto. It was there she met her late husband and they were married 51 years ago. To them were born seven children. Two died in early years and five survive to mourn the passing of a devoted mother. They are William, Edith (Mrs. Brooks), Frederick and Thos. all of Toronto and Julia (Mrs. Colway) of Detroit. She also leaves one sister, Annie (Mrs. Jos. Oliver) and one brother, Mr. Will Meads sr., both of the Old Durham Road. One sister, Maggie (Mrs. Ferris), predeceased her some few years ago.

The late Mrs. Wilson had been in failing health for some years, the last two of which she was completely invalid, but she bore her sufferings with heroic fortitude and her passing is a distinct loss to her many friends.

She was a member of St. Anne's Anglican Church, the Rector having charge of the funeral, interment taking place in the family plot.

Mr. and Mrs. Joseph Oliver and Mr. Will Meads jr. attended the funeral. The sympathy of the community is extended to the bereaved ones.

ed, in fact there was no option in the matter. He also declared it was unnecessary, as claimed by Mr. Henry, to revise Part III of the list, as it was only used for elections to the Legislative Assembly, whereas the municipal list had been revised.

It was also pointed out that the result of the vote was not affected in any way because of any alleged irregularity, and there were no complaints from anyone. It was the contention of the counsel for Mr. Lucas that the onus was strictly up to the relator, Miss Kelley, to prove irregularities and that the vote was affected by them, which in his opinion had not been done. Mr. Harris then gave figures to show that even had the Provincial list been used instead of the municipal list the result would have been even more favorable than it was. It was a municipal vote all through, said Mr. Harris, who made a number of references of other cases contained in the court records to back up his case.

Mr. C. F. Leatherland, speaking on behalf of the municipality of Markdale, was very brief. He stated that in view of the statement by Mr. Henry that he would not ask for costs against the municipality, he would not argue the case, but pointed out that it was his opinion that everything was done in good faith by both the Village Council and the Clerk.

Mr. D. L. Smith, representing the Moderation League, and who was associated with Mr. Henry in the case, also went fully into the case and reiterated many of the points brought out by the latter. He too quoted from a number of cases on the records to show that the wrong voters' list was used, and that the Clerk had not gone about his duties in the right way, contending that the petition should have first gone to the Council. Many clauses from the Voters' List Act and the Liquor Control Act as well as the Municipal Act were quoted as having a bearing on this case, and declared there was plenty of precedent for the application now being made to have the vote nullified.

His Honor Judge Morley stated that he would reserve his judgment in the whole matter, and gave no indication as to when he would deliver judgment.

Feverish Man Dead Result of Accident

James Thompson, popular Feverish young man, died in Hanover hospital as a result of a bad smash which occurred Monday forenoon at the Allan Park bridge, when a truck load of logs turned over.

Messrs. Manning Dobson and Jas. Thompson of Feverish were taking a large load of logs to Hanover. Going down the Allan Park hill to the east of the bridge one of the rear wheels came off. The truck skidded across the bridge with the end of the axle digging a groove in the cement floor about an inch deep. When the truck reached the west side of the bridge it turned across the roadway and turned upside down, scattering the logs in all directions.

Both men were pinned under the wrecked truck, with the driver, Mr. Dobson, escaping with a bad shaking up and a few cuts. Thompson's injuries, however, were more serious and proved fatal Tuesday night. He was an only son and very popular in Feverish district. He was a member of the football team. Unmarried, he was about 28 years of age. His death comes as a great shock to his parents and friends.

Mrs. J. G. Overland Died on Sunday

Following an illness of two weeks the death occurred on Sunday afternoon at her late residence on the 7th line of St. Vincent township of Mrs. Almira Overland, widow of the late John G. Overland, who predeceased her 29 years ago. Deceased, who was 86 years of age, was born in the township of Erin, Wellington county, where she resided until her marriage. The family lived in Euphrasia township for 40 years and Mrs. Overland lived for seven years in Toronto and for the past eight years in St. Vincent. She was held in high esteem by all who knew her. Her death, due to the infirmities of old age, was not unexpected. She was a member of Erskine United Church, Meaford.

The late Mrs. Overland is survived by six daughters, namely: Mrs. James Moore of Owen Sound; Mrs. John Shoemaker of Owen Sound; Mrs. James Holley of Markdale; Mrs. Robert McAfee of Meaford; Mrs. George Smith of St. Vincent, and Mrs. Ariel Gibbons of St. Vincent. The funeral took place on Tuesday afternoon at 1.30 o'clock from the residence of her son-in-law, Mr. Geo. Smith, 7th line of St. Vincent, to Temple Hill Cemetery where interment was made.

In Memoriam

McINNIS—In sad and loving memory of our little darling daughter, Joyce, who was called away so suddenly Dec. 15, 1934, aged one year, 10 months, 17 days.

Sweet little flower of heavenly birth,
You were too pure to bloom on earth
And so an Angel came one day
And took our darling Joyce away.

Sadly missed by Father, Mother,
Sister and Brother.

In Memoriam

McINNIS—In loving remembrance of little Joyce McInnis, who died Dec. 15th, 1934.

One sad year has passed away,
Since you were called away.
Short and sudden was the call,
Of one so dearly loved by all.

Sadly missed by Breadner Grandparents, Aunts and Uncles.

In Memoriam

McINNIS—In loving memory of my little niece, Joyce Marjorie Mae, who died Dec. 15, 1934.

Little eyes so soft and gentle;
Little life without a strain;
Little lips that smiled so sweetly;
Little form that was so dear.
Sadly missed by Aunt Mabel.

Orange Lodge Officers Elected for 1936

L. O. L. No. 1045, Markdale
The officers of L.O.L. No. 1045, Markdale, were elected and installed at the regular meeting held Thursday evening of last week as follows:

W.M., J. W. Stoddart.
D.M., Elgin McFadden.
Chaplain, Clare Hutchinson.
Rec.-Sec., A. E. Scott.
Fin.-Sec., Jas. Semple.
Treasurer, H. M. Irwin.
Marshal, Jas. Bradey.
Lecturers, H. R. Metcalf and J. J. Richardson.

I.G., John Graham.
Auditors, A. E. Scott and A. E. Colgan.

Committee, A. E. Colgan, John Hannah, T. H. Reburn, T. J. Hill and D. Symes.

L. O. L. No. 176, Berkeley
At the regular meeting of L.O.L. No. 176, Berkeley, held on Tuesday evening officers were elected and installed, with Mr. Andrew Gillespie, Past District Master, in charge, as follows:

W.M., Geo. Caswell.
D.M., Hugh McKennitt.
Chaplain, W. J. Middleton.
Rec.-Sec., Thos. Wiggins.
Fin.-Sec., E. T. Walters.
Treasurer, Andrew Gillespie.
Marshal, Stephen Ransome.
Lecturers, Frank Walker and T. Anderson.

Committee, Nelson Kirk, Russell Kirk, Adam Bailey, E. D. Gilpin, R. McCann.
Tyler, Chas. Ransome sr.
Lunch was served at the close of the meeting.

L. O. L. No. 740, Holland Centre
The regular meeting of L.O.L. No. 740, Holland Centre, was held on Monday evening when officers were elected for 1936. The installation was in charge of Mr. Wes. Troughton. The officers are:

W.M., Wm. Erwin.
D.M., H. Jackson.
Chaplain, Rev. C. C. Wellerman.
Rec.-Sec., Jos. Hampton.
Fin.-Sec., F. Angus.
Treasurer, Wm. Hampton.
Marshal, J. Woyce.
Lecturers, Jos. McMullen and W. Beirnes.

Committee, E. Hampton, R. Rutledge, W. Sutcliffe, E. Ashbury, W. Kirktown.

Leslie Saunders Speaks Here Friday Night

Mr. L. H. Saunders, representing the Grand Orange Lodge of Ontario West, will be at the Orange Hall, Markdale, on Friday night to address a public meeting. All members of the Order, ex-members, their friends and others interested in the advancement of the Protestant Religion are cordially invited to attend this meeting, which will commence at 8 o'clock. Mr. Saunders is an interesting speaker and he has a worthwhile message for those who may attend. The ladies are particularly invited to attend.

MARRIED

ENGEL - NEVILLE—In Kingston on Saturday, Dec. 7th, Marjorie Maud, daughter of Mr. and Mrs. J. H. Neville of Kingston, to Mr. Gordon Marcus Engel of Elmwood.

Mr. Engel was a former Assistant Representative in the Department of Agriculture here.

Engagement

Mr. and Mrs. Wm. Banks of Glenelg announce the engagement of their youngest daughter, Ada Jane, to Mr. Albert George Hanna, son of the late James Hanna and Mrs. Hanna of Shelburne, the marriage to take place the latter part of December.

The consistent advertiser is the successful businessman.