

IN RE HENDERSON AND THE TOWNSHIP OF
WEST NISSOURI.

1911

*Nov. 17.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

Leave to appeal—Municipal by-law—High-School district—Public importance.

APPEAL from a decision of the Court of Appeal for Ontario(1), affirming the judgment of a Divisional Court(2), which maintained a judge's order maintaining a by-law for a rate for a school-house in West Nissouri.

In 1888, the Middlesex County Council passed a by-law constituting East Middlesex a high school district, but nothing was done under it. In 1910, a by-law was passed establishing a continuation school in the township of West Nissouri, which was part of the high school district of East Middlesex, under the provisions of the present "High School Act," 9 Edw. VII. ch. 91, sec. 4, which provides that when a high school district has existed in fact for three months it shall "continue to exist" and be deemed a high school district under the latter Act, whether regularly formed originally or not.

On motion to quash the by-law passed in 1910, all the courts below held that the high school district of West Nissouri never "existed in fact" within the meaning of this Act when the by-law of 1910 was passed and the by-law for the rate was valid.

On motion to the Supreme Court of Canada for

*PRESENT:—Sir Charles Fitzpatrick C.J. and Idington, Duff, Anglin and Brodeur JJ.

(1) 24 Ont. L.R. 517.

(2) 23 Ont. L.R. 21.

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leave to appeal from the judgment of the Court of Appeal the leave was refused, their Lordships considering that the case raised no question of great public importance and that there was no other ground on which it could be granted.

Leave to appeal refused.

G. F. Henderson K.C. for the motion.

Chrysler K.C. contra.
