
Province of Manitoba.

KING'S BENCH.

Mathers, C.J.]

[May 25.]

IN RE RURAL MUNICIPALITY OF OAKLAND.

Local option by-law—Form of ballot—Meaning of words "as soon as possible"—Failure to keep polls open during prescribed hours.

1. The use of the form of ballot prescribed by s. 4a of c. 31 of 9 Edw. VII., amending s. 68 of the Liquor License Act, R.S.M. 1902, c. 101, at the voting on a local option by-law together with the directions for the guidance of voters in the form prescribed by s. 391 and sch. F. of the Municipal Act, R.S.M. 1902, c. 116, is not a fatal objection to the by-law, notwithstanding the inconsistency of the two forms.

2. The first publication of the notice of the voting on a local option by-law required by s. 66 of the Liquor License Act having been on Oct. 14, this was not "as soon as possible" after the second reading, which had taken place on the preceding June 5, and the by-law, although carried, should be quashed because that section had not been complied with.

3. The deliberate closing of one of the polls for about an hour upon an adjournment for lunch, though with the consent of all present and in pursuance of a local custom, was held fatal to the by-law in the absence of positive evidence that the result of the voting had not been affected thereby. *Scott v. Imperial Loan Co.*, 11 M.R. 190, followed.

4. A local option by-law may be given its third reading without waiting for the time for applying for a recount to elapse. *Re Coxworth and Hensall*, 17 O.L.R. 431, followed.

Andrews, K.C., and F. M. Burbidge, for applicant. Matheson, for municipality.

Prendergast, J.]**SMITH v. MURRAY.**

[June 11.]

Practice—Demurrer—Motion to strike out parts of statement of claim as embarrassing.

After a defendant, in his statement of defence, has demurred to certain paragraphs of the statement of claim as disclosing no facts upon which the plaintiff would be entitled to recover,