

years lapse of time. *Allan v. McTavish*, 2 A.R. 278, followed. If the words "out of any land" in the second line of s. 23, of R.S.O., 1887, c. 111, had been in the English Act, the decision in *Sutton v. Sutton*, 2 Chy. 511, would have been the other way.

Shepley, Q.C., and *Ebbels* (Port Perry), for plaintiff.

W. R. Riddell, for defendants, the widow and heirs-at-law.

Simpson (Bowmanville), for defendant administrator.

FALCONBRIDGE, J.]

[March 27.

RE GOULDEN AND THE CORPORATION OF THE CITY OF OTTAWA.

Liquor License Act—By-law—Limiting licenses—When to be passed—"Year"—Calendar year—R.S.O. c. 194, s. 20.

A corporation passed a by-law on May 4th limiting the number of tavern licenses.

Held, that the word "year" means calendar year, and that the words "before the 1st March in any year" in s. 20 of the Liquor License Act, R.S.O. c. 194, mean in the months of January or February in any year, and the by-law was quashed with costs.

Haverson, for the motion.

H. M. Mowat, contra.

Mr. Cartwright, }
Official Referee. }

[March 29.

ONTARIO BANK v. SHIELDS.

Examination for discovery—Officer of corporation—Bank clerk.

Motion by defendant under Rule 487 for an order for examination of teller in plaintiff bank, the actor being to recover money alleged to have been paid out by the teller to defendant by mistake.

The cases of *Consolidated Bank v. Neilson*, 7 P.R. 251; *Odell v. City of Ottawa*, 12 P.R. 446, and *Coleman v. G.T.R.*, 15 P.R. 125, were referred to by defendant.

It was contended for the plaintiff that in the cases cited the officer examined was a person in authority, that here the teller was a mere clerk or servant, and that there is no authority to examine such a person: *Leitch v. G.T.R.*, 13 P.R. 369, and *Rosenheim v. Silliman*, 11 P.R. 7.

Held, on the authority of *Leitch v. G.T.R.*, 13 P.R. 369; *Webster v. City of Toronto*, 15 P.R. 21; *Coleman v. City of Toronto*, 15 P.R. 125, that the teller not being in any position of power or authority is not such an officer as may be examined under the Rule.

Motion dismissed. Costs in cause.

On appeal to ROSE, J., in Chambers, this ruling was upheld.

F. C. Cooke, for defendant.

J. H. Moss, for plaintiff.