

the municipality could have made it easier for the voter to distinguish between the two ballots in question, and, therefore, as regards the ballot used on this occasion, I think it meets all the requirements of the Act. This objection is therefore overruled.

The Court being of opinion that the voting was conducted in accordance with the principles of the Act, and that no disregard of statutable formalities affected the result, this appeal should be allowed with costs and the original application dismissed with costs.

ANGLIN, J.

OCTOBER 26TH, 1906.

CHAMBERS.

MONTGOMERY v. RYAN.

Summary Judgment—Rule 603—Suggested Defence—Bank—Account—Reference.

Appeal by defendant from order for summary judgment granted by Master in Chambers, ante 430.

W. M. Hall, for defendant.

W. N. Ferguson, for plaintiff.

ANGLIN, J., ordered that if defendant files an affidavit stating that overcharge of interest will wipe out debt, defendant shall have leave to defend in respect of part of the claim, \$4,000. If affidavit not filed, judgment will stand for \$8,000. Costs of motion before Master to be costs to plaintiff in the cause. Costs of appeal to be costs to defendant in the cause.

ANGLIN, J.

OCTOBER 26TH, 1906.

TRIAL.

McCORMACK v. TORONTO R. W. Co.

Damages—Assignment of Claim for Damages ex Delicto—Action by Assignee—Cause of Action—Chose in Action—Invalidity of Assignment.

Plaintiff sued for personal injuries to himself sustained by his being run down by a car of defendants, and also for