

the counsel's representatives, and the cloak of privilege should be applied to what was heard by the witnesses without, as well as within, the cell.

*J. Hillyard Leech*, for the Crown. *Blackwood*, for the prisoner.

Full Court.]

RE DUPUIS.

[Feb. 17.]

*Municipality—By-law—Retroactive legislation.*

The Town of St. Boniface passed a by-law providing that no stable should be built and maintained at less than twenty feet from any house without the permission of the owner, and all stables built and in use at the date of the passing of the by-law, which did not conform to that standard, were declared to be a nuisance, and, as such, subject to abatement. Dupuis was convicted, under the by-law, for maintaining a stable which had been erected and used before the passing of the by-law.

*Held*, that the municipality had no power to pass a by-law having a retroactive effect, and that the conviction must be quashed.

*A. Dubuc*, for applicant. *Knott*, for Town of St. Boniface.

Full Court.]

SMYTHE v. MILLS.

[Feb. 25.]

*Pleading—Demurrer—Action of deceit—Misrepresentation as to something that would take place in the future not sufficient to found action.*

Action to recover damages for deceit. The statement of claim alleged that, during negotiations with the defendant for a lease of a store owned by the latter, he represented that the store would be vacant on October 31, 1905, that on the faith of such representation the plaintiff agreed to rent the store from November 1, 1905, purchased a stock of goods and expended other moneys in preparation for the intended business, and that it subsequently transpired that defendant had granted a lease of the store to another person for a year, which would not expire until June 1, 1906, and that plaintiff was, consequently, unable to occupy the store as agreed. On appeal from the judgment of HOWELL, C.J., on a demurrer to the statement of claim,

*Held*, that it should have specifically alleged the concealment of the lease as the ground of action, the representation as