

and at the same polling places as may be duly appointed by by-law of the said council for the next annual election of the members of the said council, and shall be taken on the same day and during the same hours as the said annual election, that is to say, on Monday the 4th day of January, 1909, commencing at 9 o'clock in the forenoon and continuing until 5 o'clock in the afternoon."

A by-law, No. 1331, for the then next election for members of the council for Owen Sound, was passed on the 15th December, 1908. This seems perfectly regular, since the amendment of sec. 338 (a), of the Consolidated Municipal Act, 1903, by 4 Edw. VII. ch. 22, sec. 8.

The votes of the electors upon repealing by-law No. 1321 were taken, and upon the new form of ballot as prescribed by 8 Edw. VII. ch. 54, sec. 10, amending in that respect sec. 141 of the Liquor License Act. This amendment changes the ballot from—

	For the By-Law. Against the By-Law.	to	For Local Option. Against Local Option.
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The votes were 1312 for local option and 1126 against local option, giving a majority in favour of local option of 186. The by-law was therefore defeated by the ratepayers. The "directions for the guidance of voters in voting," as prescribed by the Municipal Act, were changed to meet the requirements of the new form of ballot. The voting was strictly in accordance with "the directions for the guidance of voters voting" as posted up in the different polling places.

The plaintiff's counsel contends that, notwithstanding the changed form of ballot, the change in the directions was unauthorised. With this I do not at all agree. The by-law was one repealing the local option by-law, and, if the directions were not changed, they would read thus: "The voter will go into one of the compartments, place a cross (thus X) on the right hand side in the upper space, if he votes for the by-law, and the lower space if he votes against the by-law." That vote would then be for local option and against it. The matter was made very clear and plain by the directions as given. No one was misled; a large majority declared in favour of local option, in an apparently fair contest, where there was no chance of confusion or of not understanding the issue. To use the words of the Act, the repealing by-law "was not approved by the electors."