

The percentage which the appellant was required to retain was a fund to answer the liens of such of the sub-contractors and wage-earners as should take within the prescribed time proceedings to enforce their liens, but not to answer any other liens, and, not having taken proceedings to enforce his lien within thirty days after the abandonment of the contract by Gagnon, the appellant has no right to resort to the fund.

The appeal should be allowed with costs, and the judgment against the appellant should be reversed and judgment be entered dismissing the action as against him with costs.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE LENNOX, agreed.

---

HON. MR. JUSTICE MIDDLETON.

JANUARY 23RD, 1914.

HAIR v. TOWN OF MEAFORD.

5 O. W. N. 783.

*Municipal Corporations—Local Option By-law—Action to Restrain Council from Passing—Liquor License Act, s. 143a—Motion for Interim Injunction—Balance of Convenience — Terms—Speedy Trial.*

MIDDLETON, J., granted an interim injunction until the trial restraining a town council from passing a local option by-law where the refusal of the injunction and a consequent passing of such by-law would have prejudiced plaintiff in his action.

Motion to continue *ex parte* injunction restraining passing by council of a local option by-law.

A. E. H. Creswicke, K.C., for plaintiff.

W. E. Raney, K.C., for defendant.

HON. MR. JUSTICE MIDDLETON: — To avoid misunderstanding, I think it better to place in writing my reasons for the order made. A speedy trial under Rule 221 and injunction continued meantime.

A by-law was submitted in 1913 and did not receive the approval of at least three-fifths of the electors voting thereon, and the statute provides that no similar by-law shall be submitted for three years.

By a consent judgment in an action brought by a rate-payer it was declared that notwithstanding this statute a