

give a longer notice than eight days, in order to secure a better sale. The following Form may be used:—

Bailiff's Sale.

By virtue of—Execution issued out of the—Division Court for the County of—, and to me directed, against the Goods and Chattels of—, at the Suit of—, I have seized and taken in Execution—.

All which property will be sold by Public Auction, at—, on—the—day of—, at the hour of—o'clock.
Office of the—Division Court, }
—, —day of—, 185 . }

—, —, Bailiff.

Although as a general rule no sale of goods taken in execution can be had until after the end of eight days at least next following the day on which such goods have been taken, yet if from any cause the party whose goods are seized thinks it to his advantage that a sale should take place at an earlier day, and makes request to that effect in writing under his hand, (sec. 90) the Bailiff will be authorised to sell, if it be equally advantageous to the party in whose favour the execution is to make prompt sale, rather than wait for the regular period of eight days. But it will be prudent to obtain his written consent before selling on short notice. The Form of Request and Consent following should be annexed to the Execution:—

Request of Defendant and Consent of Plaintiff to sale of Goods before the usual time.

In the—Division Court for the County of—

Between A. B., plaintiff,
and

C. D., defendant.

I, the said defendant, do hereby request —, the Bailiff to whom the annexed execution is directed, to sell and dispose of the goods and chattels now in his possession, under and by virtue of the said execution against me, forthwith, and before the expiration of the time fixed by law; and I, the said plaintiff, do hereby consent to such sale being made as aforesaid; and we, the said plaintiff and defendant, do severally agree that no action or other proceeding at law shall be commenced by either of us against the said Bailiff for so doing.

As witness our hands the—day of—, 185 .

A. B.
C. D.

U. C. REPORTS.

GENERAL AND MUNICIPAL LAW.

MALLOUGH V. THE MUNICIPALITY OF ASHFIELD.

(Easter Term, 19 Vic.)

By-laws—Motion to quash.

Upon a motion to quash a by-law to revise the wards of a township, it appeared that at the meeting at which the by-law was passed there were present four municipal councillors: that the motion was put by the reeve: two of the councillors voted for the by-law, the third made no objection, and the reeve declared the by-law to be passed.

Held, that the passing of the by-law having been put from the chair, and no dissent being expressed, that it was duly passed in accordance with the 8th section of 12 Vic., cap. 81. (6 C. P. R., 168.)

In Hilary Term, *Jackson* obtained a rule *Nisi* to quash a by-law, passed on the 10th of Dec., 1855, entitled, "By-law No. 13, for revising wards in the Township," on the following objections:—

First. That it was not passed by a vote of at least four-fifths of the members of the Municipality, or the members of the Municipal Council for the time being.

Second. That a majority of the freeholders and householders of the township for the year next previous to that in which the by-law was passed did not apply by petition in writing, praying for the alterations in the rural wards made by the by-law, nor was there any application or petition for the by-law.

Third. The by-law contains no clause limiting it to take effect on the 1st of December next but one after the same was passed.

Fourth. No vote of a majority of the freeholders and householders, at the general municipal election held for the year in which the by-law was limited to take effect, for altering the divisions of the rural wards as is effected by the by-law.

Fifth. The by-law recites no petition on which it is founded, nor that it was passed in compliance with the prayer of such petition and with the directions of statute 16 Vic., cap. 181.

Affidavits were filed, verifying the copy of the by-law produced, and the last four objections were supported by affidavit and by examination of the by-law. As to the first objection, an affidavit was made by one of the councillors that he was present at a meeting of the Municipal Council on the 10th of December, 1855, when the by-law was passed: that it was read once and declared by the reeve to be passed at that meeting: that during all that meeting only four out of five councillors were present: that four-fifths of the Municipal Council did not vote for the passing of the by-law, nor did it pass by a vote of at least four-fifths: that only two of the councillors actually voted for it, and the reeve, who appeared to be in its favour, then declared it was passed: that deponent did not vote for or support the by-law; but on the contrary, he told the other councillors he did not think they had power to pass it: that defendant was opposed to the by-law, and did not vote for nor support it.

In the following term *C. Robinson* showed cause: he admitted that he could not controvert the truth of the matters stated in the last four objections: none of those formalities were observed. As to the first objection, he filed the affidavits of the reeve and the two councillors present when the by-law was passed, and of the township clerk, also present. Three of these in terms state, that the by-law passed unanimously; stating also, as explanatory, that the fourth member, whose affidavit was filed on moving for the rule *Nisi*, did not dissent from or vote against it. All four affidavits contain a statement to this effect. It is also sworn that directly after it was passed he (the fourth councillor) seconded a motion for the appointment of returning officers and the fixing the polling places at the elections for January, 1856, (see 12 Vic., cap. 81, sec. 170) according to this by-law; and a copy of the number as annexed to the affidavits, showing an entry to that effect. So far as those minutes show, however, there is no statement in fact of the passing of the by-law. The entry shows a resolution to abrogate the then existing division into rural wards and adopting a new division, and that a by-law should be framed for that purpose. No entry is made of the final introduction of the by-law, as certified and produced. *Robinson* contended this by-law was passed under 12 Vic., cap. 81, sec. 8, and then it might go into effect immediately. He urged the great inconvenience that would result from quashing this by-law: the present councillors were elected under it. The court are not absolutely bound to quash a by-law—*Hodson v. The Municipality of York, Ontario and Peel*, 13 U.C.Q.B.R.

S. Richards, in reply, argued that the affidavits filed in opposition to the rule rather sustained than met the first objection. From one of them it appeared there was voting; that the by-law did not pass *sub silentio*; and not one swears that the fourth councillor did vote for it. They say he did not dissent: did not oppose or vote against it.

DRAPER, C.J.—The 12 Vic., cap. 81, sec. 8, as amended by 13 & 14 Vic., cap. 64, sched. A, No. 1, reads thus: "That it