

Boyd, C., Anglin, J., Magee, J.]

[June 29.]

GAMBELL v. HEGGIE.

Seduction—Evidence of plaintiff's daughter—Rape—Question for jury.

In an action by a father for the seduction of his daughter the jury disagreed, and a motion was made by the defendant for judgment dismissing the action under Rule 780. The plaintiff's daughter swore that the defendant was the father of her child, but that the connection effected with her by the defendant was by force and without her consent. The daughter was not in the plaintiff's service or living at home at the time of the seduction.

Held, that it was for the jury to say, on the evidence of the daughter (even if no other evidence was given) whether or not they accepted her whole statement; they might be satisfied as to the connection and paternity, and discredit the evidence of force.

Vincent v. Sprague, 3 U.C.R. 283, and *Brown v. Dalby*, 7 U.C.R. 162, discussed.

Judgment of TEETZEL, J., reversed.

Blain, for plaintiff. *Middleton*, for defendant.

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[June 29.]

RE DEWAR AND TOWNSHIP OF EAST WILLIAMS.

Municipal corporations—By-law—Local option in intoxicating liquors—Right of council to pass upon by-law approved by electors—Procedure at meetings—Defeat of motion—Subsequent re-introduction and adoption—Statute—Imperative or directory.

A local option by-law of a township was voted upon and approved by the electors on the 2nd January, 1905, and was finally passed by the unanimous vote of the council at a special meeting held Jan. 21, 1905. It was objected that the council had no power to pass the by-law on that day, because at a meeting of the council on the 9th January, when only four of the five members were present, a motion for the final passing was negatived as the result of two voting for the motion and two against.

Held, that it was competent for the council at the special meeting of January 21 to reconsider their action, to reverse it, and, without again introducing and submitting the by-law to the vote of the electors, to pass it.

Re Wilson and Town of Ingersoll (1894) 25 O.R. 439 commented upon.

Per ANGLIN, J.:—The first sentence of s. 373 of the Municipal Act, 3 Edw. VII. c. 19 (O.), is not imperative; notwithstanding