

consolidation of 1891, 54 Vict. ch. 55, sec. 132, and have not appeared in any of the subsequent consolidations.

I do not think that the dropping of these words has altered the effect of the provision, as without such words a similar section of the English Public Health Act, 38 & 39 Vict. ch. 55, sec. 174, has been held in *Young v. Corporation of Leamington*, 8 Q. B. D. 579, 8 App. Cas. 517, to be imperative and not directory. . . .

As the appeal must be allowed upon this ground, it is unnecessary to consider the objection raised to the jurisdiction of the County Court.

The conduct of the defendants has been unmeritorious. . . . They may be well left to bear their own costs throughout.

Appeal allowed without costs, and action dismissed without costs.

RE GILES AND TOWN OF ALMONTE—MEREDITH, C.J.C.P.—
APRIL 21.

Municipal Corporations — Local Option By-law — Voting—Form of Ballot—Departure from Statute.]—Motion by William Giles to quash a by-law of the town prohibiting the sale by retail in the town of spirituous, fermented, and other manufactured liquors, on the ground that the form of ballot used in voting upon the by-laws was not that prescribed by the statute of 1908. Held, that the expressed wish of the voters ought not to be defeated by the clerk's mistake in departing from the words of the statutory form, where it is not shewn that the departure confused any one and so prevented the will of the voters from being manifested; that the circumstances brought the case within the gauge of the Interpretation Act, 7 Edw. VII. ch. 2, sec. 7 (35); and, while it is a matter of great regret that a municipal officer should depart from the plain directions of a statute, the by-law should not be quashed. Motion dismissed without costs. J. Haverson, K.C., for the applicant. W. E. Raney, K.C., and J. Hales, for the respondents.

WADDINGTON v. HUMBERSTONE—DIVISIONAL COURT—APRIL 22.

Principal and Agent—Agent's Commission on Sale of Land—Quantum.]—An appeal by the defendants from the judgment of BOYD, C., in favour of the plaintiffs for the recovery of \$1,237.50