

nership, the plaintiff continued the fruit branch and the defendant the nursery branch, each agreeing that for ten years he would not engage in the kind of business to be done by the other. The defendant's covenant was that he would not compete with the plaintiff the fruit business, provided the plaintiff should "continue for such time to carry on the fruit business."

*Held*, that this was to be read as a personal engagement for ten years by the defendant that he would not interfere with the fruit business of the plaintiff, provided that the plaintiff should always during that time continuously carry on as proprietor that business; and the plaintiff had ceased to carry on the fruit business by entering into an incorporated company and transferring to that body his plant, property, and goodwill in the business, although he was a shareholder and as manager while the company did business, and when that ceased, resumed the fruit business on his own account; and therefore he was not entitled to restrain the defendant from engaging in the fruit business during the ten years. *In re Sax, Bamed v. Sax* (1893), 62 L.J. Ch. 688, 68 L.T.N.S. 849. approved and applied.

Judgment of CLUTE, J., affirmed.

*Washington, K.C., for plaintiff. Lynch-Staunton, K.C., for defendant.*

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Divisional Court.]

[May 2.

IN RE WYNN AND WESTON.

*Municipal corporations—By-law—Motion to quash—Persons entitled to vote.*

*Held*, 1. Upon an application to quash a municipal by-law on a proper interpretation of s. 348 of the Con. Mun. Act, 1903, the clerk was justified as treating as included in the list of voters therein referred to the names of persons found to be entitled to vote by the county judge, upon revising the voters' list of the municipality.

2. The provisions of s. 368 requiring a statutory declaration of secrecy to be made by every officer and clerk authorized to attend at a polling place is directory only and that the failure of the officers to comply with its requirements does not invalidate the election.

3. It is competent for the council not to hold a poll in each