

Prendergast, J.]

May 31.

IN RE RURAL MUNICIPALITY OF SWAN LAKE.

*Liquor License Act—Local option by-law—Municipal Act—Posting up notices of voting—Ballots marked with assistance of deputy returning officer—Secrecy of ballot.*

*Held*, 1. Sec. 66 of the Liquor License Act, R.S.M. 1902, c. 101, provides completely for the giving of notice of the voting on a local option by-law under the Act and there is nothing in the Act which incorporates the provisions of s. 376 of the Municipal Act, R.S.M. 1902, c. 116, so as to require the notices provided for by that section.

2. Sec. 68 of the Liquor License Act does not incorporate any provisions of the Municipal Act with respect to matters prior to the polling, especially the matter of notice of the voting which is independently and specifically dealt with in s. 66.

3. The vote of an elector who requests assistance in marking his ballot cannot be legally taken without strict compliance with s. 116 of the Municipal Act, and when four votes were so taken without the oath prescribed by that section, a by-law carried by a majority of only two should be quashed because without violating the secrecy of the ballot it could not be shewn that a majority of the electors voted for the by-law.

*Andrews, K.C.*, and *Burbidge*, for applicant. *Robson, K.C.*, and *Foley*, for municipality.

NOTE:—It will be seen that the view of Metcalfe, J., in *Re South Cypress* is exactly the opposite of that of Prendergast, J., in *Re Swan Lake* on the question whether s. 376 of the Municipal Act is imported into the Liquor License Act by s. 68 of the latter Act. The *South Cypress* case is to be taken to the Court of Appeal.

Mathers, C.J.]

[June 2.

IN RE RURAL MUNICIPALITY OF PORTAGE LA PRAIRIE.

*Liquor License Act—Local option by-law—Form of ballot—Meaning of words "as soon as possible"—Recount—Failure to have polls open during prescribed hours—Appointment of scrutineers.*

*Held* 1. The use of the form of ballot prescribed by s. 4(a) of 9 Edw. VII. c. 31, amending s. 68 of the Liquor License Act, R.S.M. 1902, c. 101, at the voting on a local option by-law, together with the directions for the guidance of voters in the form