

it need not state in express terms that he "can swear positively to the debt or cause of action."

If the affidavit be made by the plaintiff himself, all that he need swear to, in proof of his claim, is that "in his belief there is no defence to the action."

*London and Canadian L. & A. Co. v. Morris*, 7 M. R. 128, followed.

The corresponding English order distinguished. *Central Electric Co. v. Simpson* . . . . . 94

**MOTION TO TAKE BILL OFF FILES.**

*Motion to take bill off files—When to be made—Judge's Chambers.*—A motion by the defendant to take a bill off the files is properly made in Judge's Chambers. *Fuller v. Starkey* . . . . . 400

**MUNICIPALITY.**

*Solicitor—Contract with Municipality—No resolution or by-law—Liability of Municipality.*—Plaintiff sued a rural municipality for services as solicitor, but no resolution or by-law of the Council employing him was produced, nor did the Council adopt or derive any benefit from his services.

*Held*, that he was not entitled to recover. *Curran v. The Rural Municipality of North Norfolk*, 256

2. *Local Option by-law—Application to quash by-law for repeal of—Limits of Municipality changed—Vote taken in new Municipality.*—The Municipality of North Dufferin passed a Local Option by-law, No. 64. Subsequently the Municipality of North Dufferin was divided, six

of its eleven Townships being included in the new Municipality of Dufferin composed of twenty-five Townships.

Later on the Council of the Municipality of Dufferin passed a by-law, No. 22, repealing by-law No. 64 of the former Municipality of North Dufferin. This by-law was submitted to all the electors of the new Municipality and carried.

By the Municipal Act, 1890, s. 396, (R. S. M. c. 100, s 330,) it is provided that "Every Council may repeal, alter and amend its by-laws from time to time," save as by that Act restricted.

On a motion to quash the by-law, No. 22,

*Held*, that the term, "its by-laws," referred to in the statute quoted, which a Municipality can repeal, means by-laws affecting its territory. The new Municipality which included the added territory and had full control and power over it, must have such power as is necessary to have the by-law enforced in the territory affected by it, and as such, for that purpose and to that extent, it must be considered as the successor of the former Municipality. In that view, a by-law affecting a portion of its territory and still in force, may be held to be one of its by-laws, subject to be repealed in due course, and by proper proceedings to that effect.

*Held, also*, that the by-law came under the control and power of the new Municipality, only as applying to the territory affected by it, and it was only to that extent that it became a by-law of the new Municipality.

The two years, before the by-law could be repealed, must be counted