Court Judge, his decision in the matter would not be interfered with, and an order for prohibition was refused.

J. A. Robinson, for primary debtor. Macbeth, for primary creditor.

Street, J.] FLOER v. MICHIGAN CENTRAL RAILWAY Co. [April 21.

Jury-Failure to agree-Right of judge to dismiss action.

Rule 780 which provides that "if the jury disagree and find no verdict, the judge at or after the trial may, notwithstanding, dismiss the action," does not empower the judge in every case of disagreement to determine it himself, but only where he is of the opinion that he should have withdrawn the case from the jury.

Anglin, for plaintiff. D. W. Saunders, for defendant.

Boyd, C., Ferguson, J., Robertson, J.]

RECINA v. APPELBE.

May 2.

By-law—" Transient traders"—Occupation of premises—Invalidity of— Quashing conviction.

A by-law provided that "No person not entered upon the Assessment Roll of the City of W. * * * or who may be entered for the first time in the said Assessment Roll * * * and who at the time of commencing business * * has not resided continuously in said city * * at least three months, shall commence business * * for the sale of goods or merchandise * * until such person has paid to * * the sum of * * by way of license."

Held, that the statute under which it was framed, R.S.O.C. 223, 8.583, s-ss. 30, 31 relates to transient traders who occupy premises in a municipality, and that clause (b) of s-s. 31 defining the term "transient traders" does not modify the practice as to the occupation of the premises, and that this by-law is defective and invalid as it is directed merely against persons not entered upon the assessment roll, and who have resided continuously for three months in the municipality, and is quite silent as to these persons being in occupation of premises, and a conviction made thereunder was quashed.

Aylesworth, Q. C., for defendant. W. M. Douglas, for prosecutor.

Boyd, C., Ferguson, J., Robertson, J.]
RANDALL v. ATKINSON.

[May 3.

Evidence—Death of witness before cross-examination—Admissibility— Longhand taking—Signing—Stenographic taking—Effect of.

When the old manner of taking evidence was that witnesses' answers