

*Held*, notwithstanding, that the defendants should be restrained from so conducting their business on the premises in question as to occasion a nuisance to the added plaintiffs, or either of them, or the families or lodgers of either of them, during the occupation of their, or either of their, present holdings.

*Jones v. Chapple*, L.R. 20 Eq. 529, followed.

Although the nature of the occupancy of a locality may be a large factor in deciding whether the carrying on of a certain trade there would or would not create a nuisance, yet, in so deciding, no consideration need be given to the probability that a change in the nature of such occupancy will occur in the near future.

*Held*, also, that it was not a proper case for the awarding of damages instead of an injunction, as it could not be known how long the tenants might remain, and, besides, injuries of the kind in question cannot be fully compensated by damages, and it would be impossible to estimate such damages accurately in every case.

No costs to either party prior to the further hearing, but the defendants to pay the costs of that hearing and subsequent costs.

A. J. Andrews and Knott, for plaintiffs. Campbell, K.C., and Wilson, for defendants.

Dubuc, C.J.]

IN RE R. B. FISHER.

[April 20.]

*Summary conviction—Municipal by-law—Statement of offence.*

This was an application by way of motion for a writ of certiorari to quash the conviction of the defendant, that he "did refuse to close a pool room occupied by him in the Village of Carman, after the hour of half-past eight, contrary to the by-law of the village in that behalf." The by-law provided that all pool rooms or billiard rooms in the village should be closed from the hour of half-past eight o'clock in the afternoon of every Saturday until seven o'clock in the forenoon of the following Monday, and should remain closed on every other day from ten o'clock in the evening until six o'clock on the following day.

*Held*, that the conviction was bad and should be quashed on the following grounds:—

1. It did not state that the pool room had been kept open after half-past eight in the afternoon.
2. It did not state that it was on a Saturday or Sunday the offence was committed; and, if it was not Saturday or Sunday, the pool room might have been lawfully kept open until ten o'clock in the evening.