

Ont.] SINCLAIR v. TOWN OF OWEN SOUND. [June 24.

*Municipal Act—Vote on by-law—Local option—Division into wards—Single or multiple voting.*

Sec. 355 of the Ontario Municipal Act, 3 Edw. VII. c. 19, providing that "when a municipality is divided into wards each ratepayer shall be so entitled to vote in each ward in which he has the qualification necessary to enable him to vote on the by-law" does not apply to the vote on a local option by-law required by s. 141 of the Liquor License Act (R.S.O. 1897, c. 245).

Judgment of the Court of Appeal, 13 Ont. L.R. 447, affirming that of the Divisional Court, 12 Ont. L.R. 488, affirmed.

W. Nesbitt, K.C., and Wright, for plaintiff, appellant. F. E. Hodgins, K.C., and Frost, for respondents.

Ont.] KIRSTEIN v. COHEN BROS., LTD. [June 24.

*Trade-mark—Infringement—Inventive term—Coined word—Exclusive use—Colourable imitation—Common idea—Description of goods—Deceit and fraud.*

The hyphenated coined words "shur-on" and "staz-on" are not purely inventive terms but are merely corruptions of words descriptive of the goods (in this case, eye-glass frames) to which they were applied, intending them to be so described, and, therefore, they cannot properly be the subject of exclusive use as trade-marks. A trader using the term "staz-on" as descriptive of such goods, is not guilty of infringement of any rights in the use of the term "shur-on" by another trader as his trade-mark, nor of fraudulently counterfeiting similar goods described by the latter term; nor is such a use of the former term a colourable imitation of the latter term calculated to deceive purchasers, as the terms are neither phonetically or visually alike. The judgment appealed from, 13 Ont. L.R. 144, affirmed.

Cassels, K.C., and McIntosh, for appellants. J. H. Moss, and C. A. Moss, for respondents.