

Metcalf, J.]

MOORE v. MCKIBBIN.

[Dec. 11, 1909.]

*Local option—By-law to repeal, submission of—Petition, sufficiency of.*

It is no objection to a petition under s. 74 of the Liquor License Act, R.S.M. 1902, c. 101, as re-enacted by 9 Edw. VII. c. 34, s. 4, for repeal of a local option by-law, that most of the signatures are on separate sheets of paper pinned to the one containing the heading and some of the signatures, although no portion of the petition appears upon such added sheets, unless it is shewn that such sheets were not attached to the first one at the time the signatures were made thereon. *Adams v. Woods*, noted vol. 45, p. 722, distinguished, as in that case a number of the sheets attached had been mutilated by cutting off the headings before presentation to the council.

*Maclean*, for plaintiff. *Rothwell* and *F. M. Burbidge*, for defendants.

Macdonald, J.]

JOHNSON v. CHALMERS.

[Dec. 20, 1909.]

*Garnishment—Error in form of affidavit—Substitution of words "to the like effect" for words in form.*

The substitution, though by an error in type-writing, of the word "jointly" for the word "justly" in an affidavit to lead a garnishee order is not cured by Rule 760 of the King's Bench Act, permitting the use of language "to the like effect" of the forms prescribed, and is such a defect as cannot be amended; but the use of the word "deductions" instead of "discounts" in such an affidavit is permissible under the Rule, as the two words mean practically the same thing in that connection.

*Jamieson*, for plaintiff. *Blake*, for defendant.

Mathers, J.]

SUTTON v. HINCH.

[Dec. 20, 1909.]

*Covenant—Liability of covenantor to covenantee after assignment of covenant.*

B. assigned to C. an agreement by A. to purchase land from B. and to pay for same by instalments. B. also guaranteed to C. the payment by A. of the several instalments.

*Held*, distinguishing *Cullen v. Rinn*, 5 M.R. 5, that B. could not recover from A. the amount of an instalment overdue under the agreement, though he might ordinarily have asked the court