to enlarge or explain the meaning of the granting words in such a manner as to shew that the document was a lease.

The provisions in regard to a nightwatchman, to additional barns or improvements, and to keeping the track, grounds, buildings, fences and equipments in repair and delivering them up in as good shape and repair as when taken, were all reconcilable with the view that the document was a license only, and not a lease; and, besides, there was a provision for access and entry at all times and for any purpose whatever.

The provision in the forfeiture clause that, in the event of a breach, the association should be entitled to resume possession only meant that the association should have the right to resume such possession as the grantees should have, which clearly was not an exclusive possession. The words, "and, if necessary, to enforce delivery of such possession under the Act respecting overholding tenants," could not, taken alone, have the effect of stamping the character of a lease upon the instrument. These words merely pointed to a supposed ready method of getting from the grantees such possession as at the time they might have.

Held, also, upon the evidence, that there was a breach of the contract, and that the contract was in law properly forfeited and declared void by the defendants.

Watson, Q.C., for plaintiff. *Riddell*, Q.C., for defendants.

Robertson, J.] RE McCARTEE AND TOWNSHIP OF MULMUR. [June 8.

Liquor License Act—Local option by-law—Omission to nominate deputy-returning officers in—Defect—Quashing.

When a by-law requires the vote of the electors, the deputy-returning officers to take their votes should be named in the by-law; and a by-law passed under s. 141 of the Liquor License Act R.S.O. (1897) c. 245, from which their names were omitted, was quashed, even although deputy-returning officers were subsequently appointed by a general by-law.

Haverson, for the motion. *G. M. Vance*, contra.

Meredith, C.J.] ONTARIO BANK *v.* ROUTHIER. [June 20.

Banks and banking—Deposit—Right to set off—Ranking on estate for balance—Deficiency of assets.

A testator having a deposit to his credit in a bank at the time of his death was a debtor to the bank on a note, under discount which had not then matured. After its maturity the bank brought an action on the note against his executors in which it was contended, assets of the testator being insufficient to pay his debts in full, that the bank should rank on his estate for the amount of the note and give credit on the dividend received for the deposit.

Held, that the deposit having been withdrawn or demanded before