

gives the following directions: "The number of population which is to determine the number of licenses at any time under this act shall be according to the then last preceding census taken under the authority of the Dominion of Canada.

CARLETON, Co. J.: The last census returns of the Dominion do not give the population of Grand Falls or of any of the cities or towns of New Brunswick, except the city of St. John, by wards, and we are faced with the difficulty of being called upon to decide this question without the means, and the only means by which the law contemplates that it shall be decided. The census returns of Grand Falls are given in bulk, and there is no legal means by which we can determine how many or how few of the population are to be assigned to the respective wards. I am absolutely without knowledge, personal and otherwise, to assist me in saying how many persons live in ward 2. The whole town, for aught I know, may reside within the boundary lines of this ward. In a word we are led to the absurdity of having to ascertain the population of a ward by a given means which means does not exist. The presumption of law is that the commissioners acted legally and within the scope of their authority and the onus of showing the contrary is on the applicants. This they have failed to do, because they could not do it for want of a proper census. Either the commissioners have no power to grant any licenses or they have power to grant them without limitation as to number—and this applies to every city, except St. John, and every incorporated town in the province where the Liquor License Act is in force and operation. To decide either way would be to defeat the objects of the act; and to decide that the commissioners have no power to issue any license would work a great injustice to the present licensees at Grand Falls, imposing upon them personal disabilities as to future licenses together with destruction of business and probable loss of the license fees they have in good faith paid. I am therefore of the opinion that the matter is one for the attention of the legislature and not for the courts.

Application dismissed without costs.

Gallagher, for applicants. Carvell, contra.

## Province of Manitoba.

### KING'S BENCH.

Full Court.]

MAKARSKY v. C. P. R. Co.

[July 12.]

*Workmen's compensation for Injuries Act—Lord Campbell's Act—Claim of father for damages for death of boy by accident resulting from negligence—Who may sue—Loss of future pecuniary benefit from the life—Pleading—King's Bench Act, rules 306, 453—Demurrer.*

The plaintiff's claim was for damages for the death of his son, an infant, alleged to have been occasioned by the negligence of defendants, upon one of whose freight trains he was working as a brakeman at the