to submit the question again, on the day of the municipal elections, the vote polled on the first occasion having been small.

The learned Judge was of opinion that, in the circumstances, it was the duty of the defendants' council, on the application being renewed by the plaintiffs, to do one of two things, namely: (1) if the application commended itself, pass a by-law under sec. 43 (1) of the Act; or (2), if the council thought otherwise and refused to pass such a by-law, submit the question again to the vote of the electors. This should be done simpliciter. The council could not properly, in the submission to the electors, associate other questions; and questions 2 and 3 might and probably would tend to confuse the minds of the electors and to prevent a proper vote on the one question involved in the application of the plaintiffs.

Section 398 of the Municipal Act, R.S.O. 1914 ch. 192, deals with the subjects upon which by-laws may be passed by the councils of municipalities; and sub-sec. 10 provides for submitting any municipal question not specifically authorised by law to be submitted. But the real question which the council should submit is specifically authorised by sec. 43 of the Public Schools Act.

Davies v. City of Toronto (1887), 15 O.R. 33, has no practical application to this case. But a helpful case is Re Gaulin and City of Ottawa (1914), 6 O.W.N. 30, 16 D.L.R. 865, and note appended thereto.

Upon the argument of this motion counsel for the plaintiffs said that he would be content that it should be turned into a motion for judgment; but counsel for the defendants declined to accede to that.

Since the argument, counsel for the defendants had offered to consent to a judgment withdrawing the questions complained of and substituting others.

The learned Judge said that the matter was urgent in view of the nearness of the day for voting; and he thought it his duty to grant an injunction restraining the defendants from submitting questions 2 and 3 to the electors, with costs of the motion to be paid by the defendants to the plaintiffs.

HARCOURT v. MARTIN—MIDDLETON, J.—DEC. 24.

Assignments and Preferences—Assignment for Benefit of Creditors—Claim to Rank as Preferred Creditor for Salary—Evidence.]—Action by Harry E. Harcourt against Norman L. Martin, assignee for the benefit of creditors of the Solophone Manufacturing Company, for a declaration of the plaintiff's right to rank upon the estate of the company as a preferred creditor for $450 for salary