In re Regina ex rel. Hall vs. Gowanlock.

Municipal Elections—Quo Warranto—Concurrent Motions in High and County Courts—Prohibition—Injunction—Collusion—R. S. O., c. 223, ss. 219, 227.

By section 219 of the Municipal Act, R. S. O., chap. 223, jurisdiction is given respectively to a Judge of the High Court, the senior or officiating Judge of the County Court, and the Master in Chambers to try the validity of a municipal election, and by section 227, when there are more motions than one all the motions shall be made returnable before the judge who is to try the first of them.

Two motions by different relators to try the validity of the same election were made returnable, the first of them before the Master in Chambers and the other before the County Judge who, notwithstanding objections, proceeded with the motion before him and decided that the proceedings before the Master in Chambers were collusive, when the County Judge was prohibited from further proceeding by an order made by a Judge of the High Court sitting in chambers ;

Held, that the County Court Judge having equal and concurrent jurisdiction, in respect of the matter, with the other named officials a Judge of the High Court sitting in chambers could not, under the circumstances, prohibit him from proceeding with the trial. Street J. dissenting.

It seems the County Court Judge who, without knowledge of the prior proceedings had granted a fiat for like proceedings, had jurisdiction on the return thereof to enquire whether such prior proceedings were collusive, and if so to disregard them.

Scottish Ontario and Manitoba Land Co. vs. City of Toronto—Fefoe vs. City of Toronto.

Municipal Corporations—Waterworks—Supply of Water—Statutory Obligation—Breach of Contract.

In actions of consumers of water against a municipal corporation for not providing a proper supply of pure water for the plaintiffs' elevators according to agreement, and for negligently and knowingly allowing the water supplied by them to become impregnated with sand, which greatly damaged the elevator.

Held that there was no right of action in the plaintiffs by reason of any statutory obligation on the part of the defendants. That, on the evidence, there was no contract between the plaintiffs and the defendants by which the latter were bound to supply the former with water free from sand.

The relation was rather that of licensor and licensee than one founded upon contract.

Town of Cornwall and Cornwall Waterworks Company.

Waterworks Companies—Municipal Corporation Arbitration to Determine Value—Notice to Mortgagees—Value of Works—Interest.

The omission to serve notice on the mortagees of a waterworks company, of arbitration proceedings under R. S. O. (188), chapter 164. to determine the amount to be paid by a municipality for such works and property, the mortagees not being parties thereto, and in which the award made was less than the amount of their claim, does not entitle the company to have such award referred back, and the mortagees made parties, as their rights could not be affected thereby.

In such an arbitration the arbitrators are simply to value the existing property of the company at the sum it would cost to erect the works and purchase the property, allowing for wear and tear, and perhaps for outlay of a necessary experimental character, but they are not to make any allowance for future profits or for the taking away from the company the right to supply water at a profit.

Interest is allowable on outlay during the construction of the works, but not on the cost of construction after completion, and while the annual revenue of the company is less than the annual expenditure.

Humberstone vs. York Township

Four years ago the township of York started a law-suit against Mr. Thomas Humberstone, ex-reeve of the Township, to recover $1,100 of money alleged to have been misappropriated during Mr. Humberstone's regime. The township kept the wheels of law in motion for four years, which undoubtedly cost Mr. Humberstone a lot of money, and the township's share of this suit is estimated at about $6,000, or one mill on the dollar of the total assessment. The case terminated by the township having to pay Mr. Humberstone $500. Never before was a settlement offered to Mr. Humberstone, although he instructed his solicitor from the first to accept any reasonable offer of compromise. As already intimated, the township offered Mr. Humberstone $500 in full of all his claims, which was accepted and the law suit brought to a termination.—*Leader and Recorder.*

To Improve Roads in Louisiana.

The new constitution of Louisiana allows the police juries "to set aside at least one mill per annum of the taxes levied by them, and so impose a per capita tax of not more than one dollar per annum upon each able-bodied male inhabitant . . . and to levy an annual license of not less than twenty-five cents nor more than one dollar per annum upon each vehicle, including bicycles, kept and used for locomotion" for the purpose of "constructing, maintaining and repairing the public roads and bridges of their parishes."

Municipal Franchises — Mortgaging the Future.

The streets and alleys are the heritage of citizens and should never be given away.

Mayors and councils should remember that in granting public franchises running for long periods of time, they are not merely acting for the immediate present, but are mortgaging the estate of our children's children.

Every proposed franchise should be rigidly examined, and the rights of the people carefully guarded. In franchises depending upon the volume and profit of their business, the remuneration to the city should be based upon a percentage of the gross receipts. The grant of right of way, as a street railway, for example, is a partnership. The city gives the ground ; the capitalist puts in the roadbed, track, rolling stock and buildings. Yet we fail to find any recognition of the rights of the city as a partner in the management and transaction of the business. As a consideration for the right of way, the value of abutting property similarly located should be obtained, and the city should be entitled to a proper rental, say the same rate of interest upon the gross valuation of this right of way as is paid to bondholders for the money borrowed or raised to produce and construct the remainder of the plant.

The same argument should cover water, gas, electric light, power, steam heating and telephone companies. The city authorities and not the corporation attorneys should prepare the franchise bill based upon an application. An annual rental equal to 5 per cent. of the value of the right of way should be one of the fixed conditions of the franchise. Sealed bids for the proposed franchise should then be asked for, and the city should state what percentage of the gross annual receipts of the company would be paid to the city. The sale should be subject to the ratification or rejection of the people at a special election. The rental should be paid to the city in equal quarter-yearly instalments, and the books of the corporation examined by a city committee without notice to the corporation.

Opposition to the New System.

In some towns in Maine there is complaint about the new statute which provides that each town shall have a road commissioner who is not a selectman. Those who oppose it say that it merely adds a new expense and that the roads are not improved. Its friends assert that it has not been in operation long enough to show good results, and that the roads soon will be improved, the expense of maintenance reduced, and that men who are not subject to frequent political changes can be depended on to do the best work. The matter is likely to come up before the next session of the legislature.