

Where, therefore, the ground of objection was as to the qualification of two aldermen, which was separate and distinct, the joining of the two in one motion was held to be improper.

Property which had been in the undisputed possession of an elected candidate for fourteen years, he paying no rent nor giving any acknowledgment of title thereto, his title being admitted by the previous owner, who a few days after the election executed a conveyance thereof to him, is such as to constitute a sufficient qualification.

*Held*, also, that the qualification which by section 75 of the Municipal Act is allowed to be "partly freehold and partly leasehold" is satisfied by half the amount being freehold and half leasehold.

*Masten*, for relator. *H. J. Scott*, Q.C., for Hagerman. *Wood*, for defendant Beamish.

Boyd, C.]

MOSHER v. KEENAN.

[March 15.

*Mercantile law—R. S. O. c. 150—Obtaining possession of goods—Not "entrusted"—Sale by—Recovery from purchaser—Estoppel.*

A limited meaning is to be given to the term agent as used in R. S. C. c. 150. It is to be restricted to mercantile agents and does not include every one who may act and who has possession of the property. An agent within the act must be one who is *entrusted* with the possession as agent for sale in a mercantile transaction, or for a purpose connected with the sale of the property.

And an agent who has obtained possession of certain lumber from the master of a vessel without authority from the owner was

*Held*, not to have been *entrusted* with the possession, and the owner was entitled to recover the price against the purchaser although the latter had paid the agent.

*J. M. Kilbourn*, for plaintiff. *W. J. Hatton*, for defendant.

Divisional Court.] RYAN v. CORPORATION OF CARLETON PLACE. [March 15

*Building contract—Erection of town and firehall—Reference—Division of questions of law and fact—Advisability of—Non proof of by-law—Waiver of—Plans and specifications—Incorporation into contract.*

On a reference of an action, it is inadvisable unless the line between the questions of law and fact is clear and distinct, to divide up the reference by first directing the evidence to the question of legal liability leaving the quantum of damages, and all other matters to be afterwards disposed of.

An objection as to the non-proof of a by-law authorizing a contract for the erection of a town and fire hall, raised for the first time at the close of a reference of the action to recover a balance due under the contract, was