

*ex rel. O'Donnell v. Bloomfield*, 5 O. L. R. 596, where it was held that it was incompatible for a school trustee to qualify as a county councillor.

In my opinion, the words of sec. 41, sub-sec. 5, of the Waterworks Act provide for the disqualification of a commissioner, and refer to the causes for which his seat may become vacant, and these causes are those set forth in secs. 80, 207, and 208 of the Consolidated Municipal Act; and "commissioner" may be read and construed as referring to a member of council in the Consolidated Municipal Act, under sec. 54 of the Waterworks Act.

I hold, therefore, that Dr. Irwin, being a high school trustee, is disqualified from becoming a commissioner of water and light for the same municipality.

I, therefore, declare vacant the seat of Dr. Irwin as commissioner of water and light for the village of Weston.

H. H. Dewart, K.C., for the respondent.

C. W. Plaxton, for the relator.

HON. MR. JUSTICE MIDDLETON:—The Municipal Waterworks Act, R. S. O. 1897, ch. 234, sec. 41, as amended by 3 Edw. VII., ch. 24, sec. 5, and 6 Edw. VII., ch. 40, sec. 2, provides for the constitution of the board; and sub-sec. 5 provides that the place of a commissioner—that is, of a commissioner who has been appointed—"shall become vacant from the same causes as the seat of a member of the council of the corporation;" and sec. 43 provides that no commissioner shall be interested, directly or indirectly, in any contract. There are no sections expressly providing for the disqualification of commissioners. Elections are to be held in a manner similar to other municipal elections; and certain provisions are made by which the commissioners retire in rotation.

Section 207 of the Municipal Act provides that certain things shall cause a municipal councillor to vacate his seat in the council and that a new election may thereupon be ordered. This provision is quite apart from sec. 80 of the Municipal Act, disqualifying certain persons from holding office in the municipal council. Section 80 provides, *inter alia* that no high school trustee shall be qualified to act as a councillor; but it contains no provision preventing him from holding the position of water commissioner.