defendants declaring by-laws 2,099 and 2,100 are valid and subsisting by-laws, and awarding defendants a mandatory order (asked for in their counterclaim) compelling plaintiffs to run their cars in accordance with the provisions of the by laws and compelling them immediately to replace the tracks and works illegally removed from Rectory street, restraining them from running their cars on Beaconsfield avenue and Wortley road, and compelling plaintiffs to remove their tracks and works from these streets. Plaintiffs to have so much of the costs of the action as relate to by-law 2,101, and defendants to have the costs of the action, except those relating to by-law 2,101.

Rex ex. Rel. McCallum vs. McKinnon.

Judgment on application by relator to set aside election of respondent as mayor of the Town of Smith's Falls, on the ground that respondent was at the date of such election a member of the Public School Board of that town. Respondent's counsel objected to the quo warranto proceedings on the ground that no proper affidavit was filed in support of the relator's application for a flat, allowing him to serve notice of this application, inasmuch as the paper filed did not contain the words "make oath and say." It was objected that such notice of motion had not been personally served, as required by section 223, Municipal Act. Held, that it is clear from Allen vs. Taylor, L. R., 10 Eq. 52; Phillips vs. Prentice, 2 Hare, 542; in re Newton, 2 DeG., F. and J. 3; in re Torkington, L. R. 9 Ch. 298; Regin ex rel. Linton vs. Jackson, 2 Ch. Ch. R. 26, and Regina ex. rel. Bland vs. Fogg, 6 U. C. L. J. 44, that the affidavit in question is irregular only and not invalid, as was contended by respondent's counsel, and that it was the duty of respondent's counsel, under Bland v. Fogg and Linton v. Jacksan, to have moved to set aside the proceedings in consequence of such irregularity, and that within a reasonable time, as per rule 311. Also held that respondent took a "fresh" step within the meaning of rule 311 when he made and served his affidavits on the merits, before taking the objection. With reference to the objection to the service of the notice of motion, held, following Williams vs. Pigott, 5 Dowl. R. 320; Woodside vs. Toronto S. R. W. Co., 2 Ch. Ch. R. 24, and Keachie v Buchanan, Ib. 42, that the service of notice of motion on respondent was good. As to the merits, held that respondent falls within section 5, chapter 29, 2 Edw. VII. (Ont.), amending section 80 of Municipal Act, and is, therefore, disqualified, notwithstanding the contention that the saving clause in above mentioned amending enactment relieved respondent from disqualification, as he had been elected a member of the school board prior to the passing of 2 Edw. VII. (Ont.) chapter 29, section 5. Held, that the statute deals with the members of the municipality mentioned in section 80 of the Municipal Act, and not to the election of members of school boards. Respecting the question of the time of the disqualification, Regina, ex rel. Rollo v. Beard, 6. U. C. L. J., N. S., 126 referred to. Order made setting aside respondent's election, and ordering that a new election be had. For the reasons mentioned in Regina ex. rel. Rollo vs. Beard, the respondent must be unseated with costs

Hogg vs. Township of Brooke.

Judgment on appeal by plaintiff from judgment of Falconbridge, C. J. (1 O. W. A. 568), dismissing action to recover damages for injuries sustained by plaintiff by reason of the alleged negligence of defendants in permitting an accumulation of snow to remain on part of number 9 sideroad, in the third concession of the township of Brooke, in front of one Pellow's farm, by reason of which, it was alleged, the highway became out of repair and unsafe for travel, and owing to bad and dangerous state of the highway the horses drawing a wagon in which plaintiff was travelling became imbedded in the snow, and were unable to proceed, and plaintiff in assisting the horses to get out of the snow-drift was stepped upon and thrown down, and his knee seriously injured. Held, that it was unnecessary to determine whether or not defendants would have been chargeable with actionable negligence for not removing the snow from the highway so as to make the usually travelled part of it fit for travel. Not only did defendants fail to remove the snow from the travelled part of the highway, but, having in effect provided and invited the public to use as a substitute for it a way on the side of the road, which they knew would become dangerous to those using it for the purpose of driving over with wheeled vehicles, as soon as a thaw set in, permitted it to remain for three days in a condition dangerous to persons so travelling, a thaw having set in making it dangerous for three days before the accident to the plaintiff. In those circumstances it was the duty of defendants to have made the highway reasonably fit for travel either upon the usually travelled part of it or upon the substituted way, which could have been accomplished at a trifling expense, or, failing that, have stopped the use of the road or given warning against the danger to those travelling upon it, and in omitting to do this they made default in keeping the highway in repair within the meaning of section 606 of the Municipal Act, and are answerable to plaintiff in damages. Boswell v. Yarmouth, 4 A. R. 353, Savage v. Bangor, 40 Me. 176, Stickney v. Maidstone, 30 Vt. 738, Page v. Bucksport, 64 Me. 51, McKenvin v. London, 22 O. R. 70, and Laduc v. Exeter, 97 Mich. 450, referred to. Appeal allowed with costs, and judgment to be entered for plaintiff for $600 and costs of action.

Re Southwold School Sections.

Judgment on motion by John Culver and the Board of Public School Trustees for school section number 13 of the township of Southwold, for an order setting aside an award dated the 19th November, 1901, made by arbitrators appointed by the county council of the county of Elgin, under 1 Edw. VII., ch. 39, sec. 42, subsec. 1 to hear an appeal to the county council against the refusal of the Township council of the township of Southwold to alter the boundaries of school sections 12, 13 and 14, for the purposes of enlarging school section 12, by which award the arbitrators purported to consolidate into one an order for payment of the costs of the application. The award was attacked on the ground that the arbitrators had no jurisdiction to make it, inasmuch as no public meeting had been called in school sections 12 or 13 for the purpose of considering the advisability of uniting the sections, and on other grounds. Held, that the arbitrators had no power to unite two school sections, upon an appeal against a refusal to comply with an application to alter boundaries only. The ratepayers must consent by an application to the township council for the specific purpose. Order made, but without costs, for there is no person or corporation against whom they can rightly be awarded.

Municipal Ownership.

Municipal ownership of electric and gas plants is becoming a live topic amongst municipalities at present, and is, no doubt, a wise move. A great many councils appear to be at a loss as to how to proceed, and very often make some unwise moves before calling in any expert opinion. In opening negotiations of this nature it is wise to call in an expert at the start and one who is familiar with these proceedings, who can advise as to values and give such other information as will place the council in such a position that they will be able to deal intelligently.

We would call attention to the card of Mr. H. F. Strickland, of Toronto, who has acted for many places, large and small, for both gas and electric plants and has had an experience in this line extending over a number of years.

The electors of the town of Listowel recently, by a vote of 329 to 90, carried a by-law repealing a by-law passed last fall relating to the sewerage system of the town.