

The summonses are taken up in their order by the Clerk, who names the parties in the suit, and the Bailiff calls each party twice, taking care to pronounce the names distinctly and audibly. The Bailiff should then inform the Court of the result in brief and uniform language, thus—*Neither party answers. Plaintiff present—defendant does not answer. Plaintiff does not answer—defendant present; or, both parties present*—as the case may be. The Bailiff should also see that the parties and their witness get to the place assigned to them, and hand the Testament to persons about to be sworn, and see that he complies with the usual formalities by retaining the book in his right hand while the Clerk is administering the oath, and that he afterwards kisses it; much trouble may be saved by attention to this trifling matter. The usual and best plan is for the Bailiff also to hold the book with the witness.

In the trial of disputed cases a Bailiff should be on the watch to see where his services may be necessary; thus, on hearing from parties the names of their witnesses, he will call them—will be ready with good temper, and at the same time with firmness, promptly to repress angry altercations between the parties—improper interruptions and disorderly conduct in every shape; and when a cause is closed will prevent any interruption to the further business of the Court by at once removing the parties in the case, to make room for those next in succession. A knowledge of this part of the Bailiff's duty will be best acquired by observation and practice, and in its exercise will need both discretion and good temper on the part of the officer.

U. C. REPORTS.

GENERAL AND MUNICIPAL LAW.

THE QUEEN EX REL. WALLIS V. BOSTWICK.

[In Chambers.]

"Motion for a writ summons in the nature of a *quo warranto*, at the instance of the relator, James Wallis, against George Bostwick, &c., to show by what authority he, the said George Bostwick, claims to be Councillor for the said village of Yorkville, and why the said George Bostwick should not be removed therefrom, and why the said relator should not be declared duly elected, and be admitted to the said office."

Edward Fitzgerald for relator.

Barratt showed cause.

Statement of objections:—

1. That the relator was returned only upon a majority of one vote, and that the five following persons who voted for

him were not duly qualified, viz.: William E. Braman, John F. Mossman, General Johnson, Patrick Bundy, Daniel B. Stetson,—who were none of them natural born or naturalized subjects, but aliens, born in the United States of America.

2. That Daniel B. Stetson was further disqualified, not being resident in the village of Yorkville at the time of the election.

12 Vic., cap. 197; 18 Vic., cap. 6; 12 Vic., cap. 27, secs. 4, 9 & 43; 16 Vic. cap. 182, sec. 26; 16 Vic. cap. 181, sec. 27.

In support of these objections,

Thomas Atkinson swears, that he voted at the election for four candidates (not for Bostwick); that since the election he enquired respecting Braman and Mossman, and was told that they are aliens who have not been naturalized; that he had enquired of themselves whether they had been born in the States, and was told by Braman that he was born in Massachusetts, and by Mossman that he was born in Pennsylvania, but to the best of deponent's knowledge they have neither of them been naturalized; that he has been informed and believes that the other three, Johnson, Bundy and Stetson, are aliens, and have not been naturalized.

John Edmonds makes oath, that since the election he has enquired respecting Johnson, Bundy and Stetson, and has been told that they are aliens—not naturalized; and that he has asked themselves of the fact, and was told by Johnson that he was born in Kentucky—by Bundy that he was born in Virginia—and by Stetson that he was born in Vermont, and that to the best of his knowledge they have never been naturalized; further, that he has been informed and believes that Braman and Mossman are aliens and not naturalized; and that Stetson was not, at the time of holding the election, resident in Yorkville, but was then and had been for some time before residing in or near Caroline street in the city of Toronto.

Wallis, the relator, makes affidavit to the same effect.

On the part of Bostwick,

Andrew Braman, brother of the voter, makes oath, that "their grandfather was in his lifetime a British subject."

Bundy, the voter, makes oath, that in 1851 he voted at an election of a member of the House of Assembly for the county of York, and on that occasion took the oath of allegiance, which was administered to him by the Deputy Returning Officer, and that he has ever since resided in this Province.

Johnson, the voter, makes an affidavit to the same effect as regards himself.

John Willson makes oath, that he was the Deputy Returning Officer on the occasion referred to in the two preceding affidavits, and administered the oath of allegiance to Warren and Bundy, who swore that they had, previous to that election, respectively resided in the Province for seven years. He verifies this by reference to his poll book.

Johnson swears, that he had his settled place of abode in Upper Canada on and before the 10th of February 1841, viz., ever since 1837; that in December, 1851, he being then over 16 years of age, took the oath of allegiance, and swears to having resided here for 7 years previously, before Willson, Deputy Returning Officer, as before stated.

G. Bostwick, besides supporting the impeached votes, objects to votes received for the relator and files these affidavits. (Wallis swears that none of these votes were challenged at the election.)

1st. As to *William Hilton*:

George White swears, that he is not a householder, but rents a cellar in Yorkville for curing meat, and lodges with Mr. Mountain, being a single man; is not a freeholder in Yorkville.

Oswald Foster, R. O., confirms this; says he was neither a freeholder nor householder.

2nd. As to *John Dawson*: that he occupies part of a house having no separate or distinct communication by a door with