what had been formely held, that *as respects third parties*, notice to the debtor is *not* necessary to perfect the equitable assignment of a debt. In *Watts* v. *Porter*, 3 E. & B. 743, it was decided by the Queen's Bench, after time taken to consider, that it was necessary, but Erle, J., dissented. That case was decided in 1854, and has often since been observed upon and doubted.

In *Pickering* v. *Ilfracombe Railway Co.*, L. R. 3 C. P., at page 248, Bovill, C. J., says:—"The last objection urged by the defendant's counsel was that notice of the assignment must be given to the person whose debt is assigned, in order to make the assignment available as against a creditor. The validity of this objection turns upon the doctrine of the courts of equity. As between the assignor and the assignee, it is clear that no notice is necessary. As to third persons there has been some difference of opinion: the majority of the Court of Queen's Bench in *Watts* v. *Porter*, 3 E. & B. 743, holding that the assignment without notice was inoperative as against a subsequent judgment creditor; but the Lord Chancellor (Cranworth), and Lord Justices Knight Bruce, and Turner, in *Beavan* v. *Lord Oxford*, 25 L. J. Ch. 299, and the Master of the Rolls in *Kinderley* v. *Jervis*, 25 L. J. Ch. 538, holding the contrary doctrine. * * * If it were necessary to decide between this conflict of authority, I should have no hesitation in agreeing with the opinions of Erle, C. J., in *Watts* v. *Porter*, and of the Lord Chancellor, Lords Justices, and Master of the Rolls in the two Chancery cases."

Mr. Justice Willes in the same case, at p. 251, expresses similar opinions.

In the same volume, at p. 264, is the case of *Robinson* v. *Nesbit*, in which the Court of Common Pleas overruled *Watts* v. *Porter*, and decided that a prior equitable assignment of railway shares in the hands of the garnishee, was a bar to an attachment from the mayor's court, London, notwithstanding that no notice of such assignment had been given to the garnishee.

I must hold, then, that the order given by the judgment debtor in favour of Ford and Baker, in February—before the attaching order—operates as an assignment of the fund, though the company had no notice, they not having been led from the want of notice to alter their position, so as to make it inequitable as against them, to enforce the assignment. Of the *bonâ fides* of Ford and Baker's claim, there can be no doubt

It has not escaped me that there is the difference of two cents per tie between the amount payable to Ford and Baker, and the amount payable by the company. But this makes no difference, for the 10 per cent. retainable by the company more than covers the amount.

That 10 per cent. they are willing to pay over upon receiving a release from the judgment debtor, of their contract with him, but at present they are not inbebted in the amount, and therefore cannot be ordered to pay it over.

As to the costs, the judgment creditor should pay the costs of the garnishees, but not the costs of the judgment debtor.

MUNICIPAL CASES.

Reg. ex rel. Halsted v Ferris.

Election—Declaration of qualification—29 & 30 Vic. cap. 51, secs. 131, 178.

A defective declaration of qualification of a candidate at a municipal election is not a ground for unseating him by the summary process under the Municipal Act.

[Chambers, June 30, 1870.]

It was sought on this application to unseat the defendant on the ground (amongst others) that he had not taken the declaration of qualification required by the statute. The declaration made was as follows:

"I, Matthew Ferris, do solemnly declare that I am a natural born subject of Her Majesty; that I am truly and *bona fide* seized or possessed to my own use and benefit of such an estate, namely: W. ½ Lot 1, in the Gore, 100 acres; M. part Lot 6, 2nd range of Gore, 55 acres, as doth qualify me to act in the office of Reeve for the Township of Colchester, according to the true intent and meaning of the Municipal Laws of Upper Canada."

The objection taken on this point was that the declaration was insufficient, inasmuch as it did not specify the nature of the estate claimed by the declarant, &c.; that the defendant could not, under the statute, enter on his duties until he should have made a proper declaration; and that the election of the candidate was not complete until he had done what was necessary to qualify himself for office: 29 & 30 Vic. cap. 51, sec. 178.

M. C. Cameron, Q. C., shewed cause.

O'Brien, *contra*.

Mr. Dalton—Nothing can be made of this objection on this application. Whatever might be the effect of the omission to describe the nature of the claimant's estate in a *quo warranto* at common law, it affords no grounds for declaring, in this statutory proceeding, that the election was not legal, or was not conducted according to law, or that the person declared elected thereat was not duly elected.

Judgment for defendant, with costs.

In the matter of Appeal from the County Council of the County of Essex in Equalizing the Assessment Rolls.

Equalizing assessment roll—Appeal—Mode of procedure—Notice—32 Vic. cap. 36, sec. 71, s. s. 3—Municipal Corporation, action by, without by-law.

[Sandwich, July 25, 1870.]

This was an appeal by the Municipality of Amherstburg, from the equalization of the assessment rolls by the County Council of the County of Essex.

O'Connor for the remaining municipalities objected, that under section 71 of the 32 Victoria cap. 32, subsection 3, it is the municipality that is dissatisfied with the equalization of the county council which has the right to appeal to the county judge, and not the reeve of the dissatisfied municipality, and that the municipality can only manifest its dissatisfaction and desire to appeal by formally passing a by-law, or at least a resolution authorizing the step; and that a copy of the by-law or resolution should have been annexed to the notice of appeal to the judge, or it should have been recited in the notice, that