

# The Ontario Weekly Notes

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TORONTO, MAY 1, 1912.

No. 33.

## HIGH COURT OF JUSTICE.

RIDDELL, J., IN CHAMBERS,

APRIL 16TH, 1912.

\*REX EX REL. MORTON v. ROBERTS.

\*REX EX REL. MORTON v. RYMAL.

*Municipal Elections—Township Councillors—Candidate Declared Elected by Acclamation—Property Qualification—Municipal Act, 1903, sec. 76—Sale of Qualifying Property after Election but before Declaration of Qualification—Mortgage Taken for Purchase-money—Qualification as Mortgagee—Defect in Declaration—Leave to Remedy—Effect on Seat of Councillor of Ceasing to Hold Qualifying Property—Application of Quo Warranto Procedure under Municipal Act—Notice of Motion—Amendment—Appeal—Costs.*

Appeals by the defendants from orders of the Junior Judge of the County Court of the County of Wentworth declaring that the defendants had lost the right to hold their seats as councillor and deputy reeve respectively for the township of Barton, having become disqualified since their election.

Both defendants were declared elected by acclamation at the municipal election for the year 1912.

Roberts had been assessed as a freeholder on a certain lot, and was admittedly "qualified" at the time of the election. By deed dated the 5th January, 1912, and registered on the following day, he conveyed the land absolutely to one Macdonald, having on the 1st January taken a mortgage for \$4,100. On the 8th January, notwithstanding this transfer, he made a declaration of qualification, purporting to be in pursuance of sec. 311 of the Consolidated Municipal Act, 1903, and amendments, and upon that day took his seat as councillor and continued to hold it.

\*To be reported in the Ontario Law Reports.