

been made by the vendors, and acted on by the purchaser, were not such as to constitute a separate and independent collateral agreement, and admissible as such.

*J. R. Roaf*, for plaintiffs. *Mills*, for defendant.

Divisional Court.]

[Dec. 29, 1899.

REGINA EX REL. HORAN v. EVANS.

*Public Schools—Trustee—Residence.*

The defendant, a life tenant of a farm in the township of Albion, lived on it from 1888 until 1894, when he rented it to his son and went to live with his wife and family on a farm owned by his wife, in the township of Caledon, where he continued to live until 1898, when the son having given up possession of the Albion farm, he took possession of it, to enable him to work it, sleeping in the house, and occasionally visiting his wife and family and remaining there over night, while the wife occasionally visited him, staying a couple of weeks, when there was cooking or mending to be done.

*Held*, that the defendant's place of residence was where his wife and family lived, and he was therefore not a resident within the township of Albion so as to qualify him as a trustee of a school section within that township, to which he had been elected; but as the granting of the order for a quo warranto, was in the discretion of the court and the term of the defendant's office would expire before the issue could be tried, the motion was dismissed, but without costs.

Sub sec. 8 of s. 4 of the R.S.O. c. 292, would not of itself prevent the granting of such order.

*T. J. Blain*, for the relator. *Morphy*, contra.

Ferguson, J.]

HAMILTON v. NORTHEY MFG. CO.

[Dec. 30, 1899.

*Sale of goods—Engine—Warranty for return of article.*

Where, in a contract for the sale of a gasoline engine and tank, there was a warranty that if the engine would not work well, notice thereof was to be given to the defendants stating wherein it failed, and giving a reasonable time to get to it and remedy the defect, and, if such defect could not be remedied, the engine was to be returned to the defendant, and a new engine given in its place.

*Held*, that the plaintiff's remedy under such warranty was for the return of the engine and its replacement by another engine, and not for damages for breach of warranty.

*A. S. Bull* and *S. G. McKay*, for plaintiff. *J. R. Roaf*, for defendants.