elected, the four councillors were still present, and must have heard the declaration of the clerk, as he spoke in a loud tone of voice, and the room in which the meeting was held is small; that the said relator, James Heenan, was not a candidate for the said office of reeve, nor was there any other candidate for the said office at the said election except the said Thomas Murray, nor was the said James Heenan's name mentioned, or any other person, at said election, in connexion with the said office, other than the said Thomas Murray.

The affidavit of John Supple was corroborated by the affidavits of Richard Fallow and James P. Moffatt, both electors, who happened to be present when defendant was declared elected by the clerk.

R. A. Harrison supported the summons, and cited Con. Stat. U. C. cap 54, secs. 130, 132.

Hagarty, J.—The statute directs, that the council, being at least a majority of the whole number of the council when full, shall, at their first meeting, after making the declarations of office and qualification, organize themselves as a council, by electing one of themselves to be reeve, &c. (Sec. 132.)

At the first meeting here, four councillors were present, and they should, according to the statute, have chosen their reeve.

The relator and his fellow-councillors admit that a resolution naming Murray as reeve was put and seconded; that he (relator) and the others expressed dissent, and rose to go away; that while in the act of going, the clerk said that if no amendment were moved, he would have to declare Murray elected.

Two witnesses swear in reply that no dissent was expressed to the resolution; that after ample time had elapsed, a member called "Question!" and there being no dissenting voice, the clerk declared Murray elected; that when he did so the four councillors were present, and must have heard him do so.

The fact of their being present, and hearing the clerk ask if no amendment moved, &c., is admitted.

It is quite true that the reeve should be elected by a majority. It is equally true that the councillors should, in obedience to the law, have elected, or at least fairly tried to elect, a reeve, at this their first meeting.

The relator and his friend do not assert that when they heard the clerk say he would have to declare Murray elected, they protested or made any further expression of dissent. I think, therefore, we must assume the law to have been complied with, and that when the clerk, trying to do his duty, and to obey the law, in the hearing and presence of the four councillors, declared publicly that if no amendment were moved he would have to declare Murray elected, and no one dissenting therefrom, the latter was elected by a legal vote duly made.

We all know that in representative bodies the great majority of resolutions are passed without any formal voting by yeas and nays.

I cannot but consider that this election should stand.

I think the relator and his friend tried to prevent the law being obeyed. They suggested no candidate of their own, and made no *bona fide* attempt to have a formal vote taken. Taking their own account, they rose to go away, leaving their legal duty unperformed, and heard notice given that Murray would be declared elected, if no amendment were offered.

The other objection, that this election did not take place till six o'clock, is too trivial to require serious notice.

The summons must be discharged with costs, to be paid by the relator.

Order accordingly.

CHANCERY.

(*Reported by* Alex. Grant, Esq., *Barrister-at-Law,*) *Reporter to the Court.*

Patterson v. Johnson.

Injunction—Trade fixtures.

The purchaser of the equity of redemption in certain mortgage premises erected thereon a machine shop, wherein he placed a boiler and engine, and introduced into the building three lathes, a wood-cutter, and a planing machine, all of which were worked and driven by such engine, but were in no way attached to the machine shop except by belting or similar means, when in motion; being in every other way unconnected with it or any of the fixed machinery, and capable of being removed without disturbing the machinery, or doing any damage to the realty in any way.

Held, on a motion to dissolve an injunction which had been obtained *ex parte*, that these articles were removeable as trade fixtures.

The distinction between chattels affixed with nails or other fastenings, and those resting by their own weight, remaining chattels or becoming part of the realty, considered and doubted.—*McDonald* v. *Weeks*, 8 U. C. Chan. Rep. 297, considered and approved of.

In this case an *ex parte* injunction had been granted restraining the defendant from removing certain articles placed in the machine shop, in the pleadings mentioned by the defendant since he had gone into possession of the premises, he having purchased from the mortgagor his equity of redemption in the property upon which the shop was erected. The defendant now moved upon affidavits to dissolve this injunction, on the grounds stated in the head note and judgment.

Tilt, for the motion.

Crombie contra.

Vankoughnet, C.—This was a motion to dissolve an *ex parte* injunction, restraining the defendant from removing from the premise certain machinery, among which are three lathes, a wood-cutter, a planing machine and a circular saw. It is as to these articles that a dissolution of the injunction is sought. The plaintiff is the mortgagee of the land, and the defendant the assignee of the equity of redemption. The defendant, and not the original mortgagor, erected upon the land a machine shop, in which he placed a boiler, engine, and the articles above mentioned, with some others. Such of the machinery as can be treated as having been affixed to, and thus become part of the realty, are doubtless covered by the plaintiff's mortgage, though placed on the land subsequently to its execution. But the defendant contends that the articles above named never were in any way affixed to the realty—never became a portion of it; were but deposited in the machine-shop—worked there from time to time, but in no way attached to it except by belting or some such means when in motion—in every way disconnect-