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ST. THOMAS, MARCH 1, 1900.

An investigation of the accounts of the County of Carleton is being made in response to a resolution passed by the county council.

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Municipal officers, particularly clerks, are frequently called upon to explain to ratepayers the proceedings necessary before constructing a drain under the Ditches and Watercourses Act. We draw their attention to the case of Turtle vs. the Township of Euphemia, the judgment in which is reported in this issue. It decides that the appointment of one engineer should be revoked by by-law of the council before his successor can be legally appointed, otherwise an award made by the latter is invalid.

Public Schools Act.—Appointment of Arbitrators by County Councils.

At the last session of the council of the county of Kent, representatives from School Section No. 17, in the township of Chatham, applied for the appointment of arbitrators to settle a dispute as to the boundaries of that section under the provisions of the Public Schools Act. The council refused to entertain the application, and the trustees have applied to the courts for a writ of mandamus to compel the county council to accede to their request. The result, if the matter is "fought to a finish," will be awaited with keen interest, as the judgment will involve the settling of a nice point arising under section 39, of the Public Schools Act, as amended by 62 Vic., chap. 36, sec. 4, i. e. Is the word 'may" in the first line of subsection 3 of this section compulsory and meaning the same as if the word "shall" had been used? Or is it only permissive, leaving it in the discretion of the County Council as to whether they should take action and appoint the arbitrators or not.

LEGAL DECISIONS.

Regina ex. rel. Hill vs. Dowswell.

This was an application to unseat the reeve elect of the village of Dutton on the ground of insufficient property qualification. It was argued recently before Judge Hughes, Senior Judge of the County of Elgin, and through His Honor's kindness we are enabled to set out the judgment delivered, in detail. It is as follows:

The ground of the application to unseat the Respondent was that he was not assessed for the proper amount to qualify him for the seat. The fact was that he and other tenants of a Doctor Cascaden, their landlord, were inserted in the voters' list without any particular parcel or amount being set opposite their respective names. Each held a separate property, independent of the others, and all were bracketed with the landlord for $1,400.

The Judge held that no specific property or amount being set opposite the name of the respondent, he was, in fact, not assessed at all, and that the $1,400 being set only opposite the property and name of the landlord in the assessment roll, it must be taken as the assessment of the proprietor and not of either of the tenants. That the Assessment Act requires, amongst other things, that the roll should show the description and extent or amount and value of property assessed against each person named on the roll, the number of concession, name of street or other designation in which the property lies, the number of the lot or house, etc., the number of acres or other measure, showing the extent of the property and the value of each parcel of real property.

Land not occupied by the owner, but by occupants or tenants, but assessed against both the owner and occupant or owner and tenant, the assessor should place both names within brackets on the roll, and write opposite the name of the owner the letter "F," and opposite the name of the occupant or tenant the letter "T," and both names should be numbered on the roll.

In this case the assessor, to properly comply with the statute, should, where there are two or more separate tenants of distinct and separate properties, have set each down separately, bracketing the name of the owner or landlord with each tenant for each separate property, or if taken together *en masse* the bracketing should be thus (for example):

365	Talbot, John,	lot 6, con. 5	$500 O or T
366	Hudson, Geo.,	lot 5, con. 5	$400 T
367	Peterson, Sam.,	lot 7, con. 5	$600 T
368	Cascaden, John,	The Whole	$1,500 O or F, as the case may be.

As to awarding the seat to the relator the application was refused. As there appeared to be no objection to or scrutiny of votes, and as a majority of good votes appeared to be against and not in favor of the relator, the seat must be declared vacant for want of an assessed qualification in the person having the majority of votes. The election must be voided and a new election ordered. It would be otherwise if, upon a scrutiny of the votes, a majority of good votes had been found to have been cast for the relator.

Turtle vs. Township of Euphemia.

Ditches and Watercourses Act — Award — Engineer — Appointment — Revocation — Notice —Jurisdiction—Estoppel— Appeal.

By sec. 4 (1) of the Ditches and Watercourses Act, R. S. O., chap. 285, it is provided that "every municipal council shall name and appoint by by-law (form A) one person to be the engineer to carry out the provisions of this act, and such engineer shall be and continue an officer of such corporation until his appointment is revoked by by-law (of which he shall have notice), and another engineer is appointed in his stead, who shall have authority to commence proceedings under this act or to continue such work as may have been already undertaken."

The defendant's municipal council appointed R such engineer, in manner provided by the Act, in April, 1895, and he accepted the office and acted and continued in it. In 1898 they, without any notice to R, and without any by-law expressly revoking his appointment, passed a by-law purporting to appoint S as such engineer. In both appointments the form of by-law prescribed by the act was used; the latter by-law in no way referred to the former or to R.

Held, that the prior appointment had not been revoked; that S did not become "the engineer," and that an award purporting to be made by him as such engineer under the act was invalid.

S was not *de jure* the engineer, because R's appointment had not been revoked by by-law, either with or without notice to him, and *semble*, that the notice required was the intention to revoke.

The defendants could not assert that S was *de facto* the engineer, for he had not the reputation of being the engineer.

Held, also, even supposing that consent could confer jurisdiction, or that the plaintiffs might waive or be estopped from urging an objection to S's jurisdiction, that there was no reasonable evidence of any such consent, waiver or estoppel, for the plaintiffs' requisition called for "the engineer," and it was the act of the township clerk which called in S instead of R; the plaintiffs did not know who was the engineer; they had heard that S had been appointed, but neither of them knew that R's appointment had not been revoked by by-law of which he had had notice. The point was raised upon an appeal against the award and was overruled, but as it went to the root of the jurisdiction of the whole proceedings, including such appeal, there was nothing in such proceedings which could prevent a consideration of the question now.