

THE MASTER IN CHAMBERS.]  
STREET, J.]

[March 3.]

REGINA EX REL. PERCY v. WORTH.

*Municipal Act—Election—Disclaimer—Lowest candidate taking seat—Motion to set aside the election—Omission of interest of relator—Amendment—Con. Rule 444.*

At an election under the Municipal Act, 55 Vict., c. 42 (O.), for a deputy-reeve of a town there were three candidates, and after the election and before the first meeting of the council the two who had received the highest and second highest number of votes successively disclaimed, whereupon the remaining candidate, who had received the lowest number of votes, made the declaration of office and took his seat. On a motion in the nature of a *quo warranto* made by the said candidate who had received the highest number of votes to have it declared that there was no election, and that the seat was vacant ;

*Held*, that the motion failed, for what took place constituted an election of the respondent and entitled him to the seat ; but in any event the question could not be raised by notice of motion.

The notice of motion did not show any interest in the relator as required by s. 187 of the Act ; but it having been shown by affidavit that the relator was the said candidate, an amendment of the motion was allowed under Con. Rule 444.

*Osler*, Q.C., for the relator.

*Aylesworth*, Q.C., *contra*.

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*Practice.*

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THE MASTER IN CHAMBERS.]

[Feb. 11.]

RAMUS v. DOW.

*Parties—Mortgage action—Personal representative of deceased mortgagor—Devolution of Estates Act—54 Vict., c. 18, s. 1.*

A mortgage action against the surviving husband and infant children of the mortgagor, who died intestate in February, 1892, was begun before the lapse of a year from the death.

*Held*, that the plaintiff was entitled, after the lapse of a year, to judgment for the enforcement of her mortgage, without having a personal representative of the mortgagor before the court, no administrator having been appointed, and no caution registered under 54 Vict., c. 18, s. 1, amending the Devolution of Estates Act.

*D. T. Spivey* for the plaintiff.

*F. W. Harcourt* for the official guardian.

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