

I prefer, however, to deal with the matter upon the law. Section 215a. provides that in the case of a vacancy in the office of alderman in a city, occasioned by death or resignation or by any cause, where the aldermen are elected by a general vote, the unsuccessful candidate who received the highest number of votes at the last municipal election shall be entitled to the office. It is argued that although the aldermen in Windsor are elected by wards, the water commissioners are elected by general vote.

The learned Judge has taken the view that the section only applies to a city where aldermen are elected by a general vote, and has no application to the case in hand. I prefer to base my judgment upon the view that the section in question applies to a vacancy arising under sec. 207 of the Act, or for some cognate reason, and does not apply to a vacancy created by *quo warranto* proceedings; which is governed by sec. 233, and gives a discretion to the Judge either to declare a claimant duly elected or to order a new election.

I agree with the result arrived at by the learned County Court Judge; and both appeals will be dismissed.

As both fail there will be no costs.

HON. MR. JUSTICE MIDDLETON.

APRIL 18TH, 1913.

RE THE TRUSTS OF THE NORTHERN ONTARIO
FIRE RELIEF FUND.

4 O. W. N. 1118.

Trusts and Trustees—Relief Funds—Forest Fire Sufferers—Surplus on hand—Establishment of Hospitals with—Provision for Maintenance by Municipalities.

MIDDLETON, J., *held*, that a surplus remaining in the hands of trustees of funds collected to aid sufferers from a Northern Ontario forest fire should be devoted towards the establishment of hospitals at Cochrane and Porcupine upon satisfactory assurances being given that such hospitals would be maintained by the two municipalities in question.

Motion by the trustees of a fund for an order determining what shall be done with a surplus remaining in their hands after payment of all claims in respect of the purposes for which the fund was primarily contributed.