

Section 207 of the Municipal Act provides that certain things shall cause a municipal councillor to vacate his seat in the council, and that a new election may thereupon be ordered. This provision is quite apart from sec. 80 of the Municipal Act, disqualifying certain persons from holding office in the municipal council. Section 80 provides, *inter alia*, that no High School trustee shall be qualified to act as a councillor; but it contains no provision preventing him from holding the position of water commissioner.

Section 54 of the Municipal Waterworks Act provides that "this Act shall be read and construed as part of the Municipal Act," and the learned Judge has held that the effect of this section is to make applicable to water commissioners all provisions found in the Municipal Act with reference to the disqualification of councillors, *mutatis mutandis*.

I cannot follow him in this reasoning. Assumed that the 53 sections of the Municipal Waterworks Act had been embodied in the Municipal Act; I do not see how that would enable the sections dealing with the qualification and disqualification of municipal councillors to be read as applicable to water commissioners. It is significant that sec. 53 makes applicable to the election of commissioners the sections of the Municipal Act relating to "elections." These sections, if regard is had to the divisions of the Municipal Act, commence with sec. 95, and are quite independent of the sections relating to qualification and disqualification of councillors.

In my view, the appeal must be allowed, and the original application dismissed with costs.

Both parties proceeded upon the assumption that the *quo warranto* sections of the Municipal Act applied to this case. I have not investigated that matter.