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No. 32

HIGH COURT DIVISION.

MIDDLETON, J., IN CHAMBERS.

APRIL 14TH, 1913.

REX EX REL. GARDHOUSE v. IRWIN.

*Municipal Corporations—Commissioner of Water and Light—
Disqualification of High School Trustee—Quo Warranto
Application—Municipal Waterworks Act—Municipal Act.*

Appeal by E. F. Irwin, the respondent, from the order of
WINCHESTER, Co.C.J., ante 1043.

H. H. Dewart, K.C., for the appellant.
C. W. Plaxton, for the relator.

MIDDLETON, J.:—The respondent was elected to the office of commissioner of light and water in the Village of Weston, and was unseated because at the time of his election he was a member of the High School Board of that village.

The Municipal Waterworks Act, R.S.O. 1897 ch. 235, sec. 41, as amended by 3 Edw. VII. ch. 24, sec. 5, and 6 Edw. VII. ch. 40, sec. 2, provides for the constitution of the Board; and sub-sec. 5 provides that the place of a commissioner—that is, of a commissioner who has been appointed—“shall become vacant from the same causes as the seat of a member of the council of the corporation:” and sec. 43 provides that no commissioner shall be interested, directly or indirectly, in any contract. There are no sections expressly providing for the disqualification of commissioners. Elections are to be held in a manner similar to other municipal elections; and certain provisions are made by which the commissioners retire in rotation.