

in an adjoining town, village or city. The office in this case was in a portion of a territory detached from the township of Melbourne, and was consequently within the territorial jurisdiction of the municipal respondents for all purposes of the Municipal Code. The secretary-treasurer was authorized to administer the oath to the valuers there. As to No. 4, the valuers acted together as proved.

As to objection No. 5, it is to be observed that petitioners' allegation is general. They make no specific complaint of omissions, but simply say, you have not complied with 718 M. C. The roll gives names and surnames, quality and age of owners, the names of occupants of lands when different from owners' description of property, *i. e.* the part of lot and range, the value, the annual value in a large majority of cases. It does not give the property assessable under Art. 710, but no proof is made here that such property existed, and it is the same with regard to the requirements of Art. 712 M. C., except that they have mentioned some, and no proof that they have not given all the number of inhabitants, but have not inserted what is required by Provincial Secretary. Are the omissions fatal? So far as petitioners are interested, all the requirements of Art. 718 for the purposes of taxation, have been complied with.

As to objection 6, the roll was signed by three valuers, but No. 7, it was not sworn before a Justice of the Peace as required by the letter of Art. 725, which was an amendment of 45 Vict., ch. 35, s. 21. I, however, read this now incorporated with the Code in connection with Art. 6, and I think that the oath was sufficient taken before the secretary-treasurer. This says before whom "any oath required by the provisions of the Code may be taken," Mayor, warden, secretary-treasurer or Justice of the peace." Arts. 28 and 6, I think, must be read together, though it might have been wiser to have followed Art. 725 literally.

Objections 9 and 10 are more serious. The amendment in Art. 725 declares that in the attestation, the words "based upon the real and annual value of the property" should be inserted. They have been omitted. Is the omission fatal to the roll, or in the roll itself

have we evidence to supply it? The valuers swear that the roll is correct, and in it they have given the real and annual value.

I do not think that this omission which is the most serious objection taken in connection with Art. 14 M. C. and Art. 16 M. C., is so serious that this Court would be justified in annulling the roll, especially as petitioners were made aware of its contents so far as they were affected, and sought and obtained its amendment without raising any question as to its validity. The petition is therefore dismissed with costs.

Trenholme & Taylor, attorneys for petitioner.

P. G. Mackenzie, counsel.

Ives, Brown & French, for respondents.

The petition in the other case of Thomas M. Taylor, Petitioner, and the same Respondents, was also dismissed. This was based solely upon the technical grounds urged in The New Rockland Slate Company's petition. There was a question as to petitioner's status. He was on the roll, but did not prove the other qualification required in Art. 291, such as being a British subject, etc. His qualification as a municipal elector was specially denied, which was not the case in *Allan v. Richmond*, 7 L. C. J., p. 63, when it was only raised by general issue, and at the argument. But for the reasons specially given on the grounds raised in the other case, this petition was also dismissed.

COMMON PLEAS DIVISION, ONTARIO.

TORONTO, Feb. 27, 1888.

MCARTHUR et al. v. THE NORTHERN AND PACIFIC JUNCTION R. W. CO., AND HENDRIE, SYMONS & Co.

Railways—Dominion Railway—R.S.C. ch. 109, Sec. 6, sub-sec. 12; sec. 27—Line built through lands under Ontario timber license—R.S.O. ch. 26—Timber cut within and outside six rod belt—Limitation of action.

The defendants, a railway company, incorporated under an Act of the Parliament of Canada, built their railway through land in the Province of Ontario, the fee of which was in the Crown, but which was under a timber license issued by the Ontario Government, under R.S.O. ch. 26, to the plaintiffs. The defendants cut down and removed the timber both within and outside the six rod limit men-