

Re Village of Markham and Town of
Aurora.

Judgment on motion by the corporation of the village of Markham and John Flintoff, for a summary order quashing by-law 192, of the town of Aurora, "to authorize the issue of debentures of the town of Aurora to the amount of \$10,000, bearing interest at the rate of four per cent. per annum, for the purpose of granting a bonus of \$10,000 to Messrs. Underhill & Sisman (who are now carrying on the business of manufacturing boots and shoes in the village of Markham, and who are about to remove their plant and machinery and carry on the said manufacturing business in the town of Aurora,) to enable them to erect and equip a factory and other necessary buildings for the purpose of carrying on the business of manufacturing boots and shoes in the town of Aurora," and quashing by-law 293 of the town of Aurora, to exempt Underhill & Sisman from all municipal taxation for ten years, and to provide them with water free of cost for ten years. Held, after a careful perusal and consideration of the evidence, that upon the question of fact the motion failed. The business in question is not an industry established elsewhere than in the town of Aurora, viz., in the village of Markham. The corporation of the former, in good faith, and only after it had become publicly known that the firm had decided, in January, 1901, to leave Markham, communicated with them. Held, also, that the by-laws came under section 386 of the municipal act, which provides for making debts payable in annual instalments, adopting the provision of sections 384-5-6, and are in substantial compliance with them and not affected by sec. 399, sub-sec. 6. See re Farlinger & Village of Morrisburg, 16 O. R. at p. 724; re Caldwell and Galt, 30 O. R. at p. 381. Motion dismissed with costs.

Re Ontario Voters' Lists Act: Township of
Madoc, County of Hastings.

Judgment upon the question submitted as in township of Marmora case. In this one the clerk of municipality posted up the lists of voters in his office on August 23, 1900, and on September 21, 1900, notice with the list of names in the form (6) required by the act was received by the clerk through the mail by registered letter. The question to be decided is whether the sending of the notice by mail is a compliance with the provisions of section 7, of the act, which requires that the "voter or person entitled to be a voter making complaint shall give to the clerk or leave for him at his residence or place of business notice in writing." It was contended on behalf of certain voters that the notice must be given or left by the voter himself, and that service by any agent was not a compliance with the terms of the section. Held, that service of the notice may be effected by an agent; that the post-office may be such agent, and that the service in this case was valid.

Re Hill and Township of London.

Judgment on motion by Robert Hill, a ratepayer of the township, to quash by-law No. 430, passed on the 3rd June instant, prohibiting the hauling, carrying or bringing of night-soil or other filth within the township. Held, that the objections to the scope of the by-law are well taken, and that it cannot be sustained. It was sought to support it under section 586 (1) of the municipal act. It may be that the object and intent of the council was to prevent the bringing and depositing or leaving within the limits of the municipality of night-soil or other like filth in such manner as to be or cause a nuisance. But the enactment goes beyond that. It is a total prohibition, nuisance or no nuisance.

Order made quashing by-law with costs against the municipality.

Mitchell vs. City of Hamilton.

Judgment on appeal by the Hamilton Street Railway Company, third parties, from judgment of Rose, J., in favor of plaintiff, and directing the third parties to pay the amount of the judgment and costs, and the costs of the defendants. Action for damages for injuries sustained by plaintiff, who, on March 9, 1900, when driving a sleigh on York street, in the city of Hamilton, was thrown out and had his leg broken. The trial judge found that the third parties had in clearing the street of snow from their tracks on the street negligently left a bank of snow on the south side, of from a foot to eighteen inches above the level of the track, thus leaving the street in an unsafe condition, and that the plaintiff was entitled to recover against the corporation, and that the latter were entitled to recover against the third parties, because as between them and the corporation they had not performed the contract by which they acquired the right to use the road. Held, that upon the proper construction of the defendants' by-law 624, section 17, to the terms of which the third parties were bound to conform, they had failed to remove the snow so as not to obstruct or render unsafe the street. Appeal dismissed with costs.

Rex ex rel. Carr vs. Cuthbert.

This was an appeal by relator from order of Master in Chambers dismissing application to set aside election of respondent as reeve of the township of West Oxford, upon grounds of bribery, the hiring of carriages by respondent and his agents to convey voters and the reception of the ballots of a large number of persons who were entitled to vote. The master found that no evidence was offered in support of the objections as to the hiring of carriages and the voting of persons not entitled to do so. The charges of bribery, consisting of the alleged giving of car tickets to one man, calling off a debt of \$2 owing by a voter to an agent of respondent and the promise of 25 cents by the same agent to another

voter, were held by the master not to be proven, and in his opinion the relator had no good reason for believing the respondent guilty of bribery, and such an application ought not to have been launched by the relator without having previously made more inquiry than he admits having made on his examination. Appeal dismissed with costs.

Sturgeon Falls Electric Co. vs. Town of
Sturgeon Falls.

Judgment in action tried at North Bay and Toronto, brought to restrain defendants from trespassing upon certain land described as block C, in Holditch's survey of part of lot 4, in the first concession of the township of Springer, District of Nipissing; and to recover damages for past trespasses. The defendants admit entry for the purpose of laying certain pipes, and claim, under a right acquired from J. Holditch, the patentee from the crown. Held, that the object of the reservation by J. Holditch, when he conveyed to one Clark, of an easement across block C, the servient tenement, was for the benefit of blocks A and B, the dominant tenements, and by the transfer from Clark to Russell of C, and from Holditch to Russell of A and B, and of Holditch's removing interest, if any, in C, the dominant and servient tenements become united in the same owner, and the right to the easement, which had never been exercised, became extinguished. Injunction made perpetual and defendants to pay \$120 damages and costs of action and motion for injunction on high court scale.

Re Ontario Voters' Lists Act: Township
of Marmora, County of Hastings.

Judgment upon a case stated under sec. 38 of the Ontario voters' lists act by the junior Judge of the County of Hastings. A list of appeals containing some 225 names to be added to the voters' lists was preferred, and a voter's notice of complaint in form 6 of the Act was signed by the complainant, attached to the list of names to be added, and handed the clerk in his office within 30 days required by statute. When the list was presented by the clerk in court the notice of complaint was absent and it was objected that there were therefore no appeals before the court. The question asked is, whether a complaint in regard to a voters' list can be heard without the papers before the judge containing a written notice of the complaint and intention to apply to him, it being shown by parol evidence that such notice has been left or given to the clerk at the proper time, but subsequently lost. Held, that it was competent for the judge to hear and receive parol evidence as to form and effect of the notice in question, and of its loss, and that upon being satisfied by such evidence that a sufficient notice of complaint was duly left with the clerk as by the act required, the complaint may be dealt with by the judge as prescribed by it.