

MEREDITH, C.J.]

[Jan. 23.]

THOMPSON v. HOWSON.

Pleading—Notice of trial—Christmas vacation—Amendment—Leave—Time—Close of proceedings—Rules 392, 427, 484, 1331.

A party to an action has the right, notwithstanding the insertion in Rule 484, by Rule 1331, of the words "or of the Christmas vacation," to deliver a pleading during such vacation; and a notice of trial given therein is regular.

Where a pleading is amended under an order giving leave to amend, Rule 427 does not apply; and, under Rule 392, when the amendments allowed by the order have been made or the time thereby limited for making them has elapsed, the pleadings are in the same position as to their being closed as they were in when the order was made.

W. E. Middleton for the plaintiff.

J. H. Moss for the defendant.

ELECTION CASES—ONTARIO.

OSLER, J.A.]

[Nov. 27, 1894.]

IN RE CENTRE SIMCOE.

Ontario elections—Disqualification—Contractor for carrying mails—Withdrawing petition.

This was a motion by the petitioner for leave to withdraw his petition on the grounds set out in the judgment.

Leave granted, and

Held, that a member of the Ontario Legislature is not disqualified from holding his seat by reason of his holding a contract for the conveyance of Her Majesty's mails.

OSLER, J.A.: The affidavits denying collusion, the existence of any corrupt arrangement, etc., are sufficient to satisfy me as to the *bona fides* of the application, and all the prescribed formalities as to publication of notice of the application have been complied with. The only legal question raised by the petition is whether the respondent is disqualified to be elected and returned as a member by reason of his holding a contract for four years for the conveyance of Her Majesty's mails between the Grand Trunk Railway and the New Lowell post office.

The contract is in the form of an unilateral agreement signed by the respondent, and he agrees thereby, should the Postmaster-General require it, to enter into "a regular contract" for the services described therein. The agreement or contract is made or to be made with the Postmaster-General pursuant to the 9th and 54th and following sections of the Post Office Act.

Such a contract or agreement, however, does not come within the 8th section of the Act respecting the Legislative Assembly, R.S.O., c. 11, which, except as is thereafter excepted, disqualifies any person accepting or holding any office, commission, or employment in the service of the Dominion, or of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or any fee, allowance, or emolument in lieu of