

## COMMON LAW CHAMBERS.

Osler J.] [Feb. 19.

REG. *ex rel.* KELLY V. ION.*Municipal Councillor—Qualification—Value.*

This was a *quo warranto* summons, calling on John Ion to show cause why he should not be removed from the office of councillor for the village of Oakville, on the ground of want of property qualification. The property on which the defendant qualified was assessed at \$1,600, and upon it there was a mortgage for \$1,500. The relator contended that under 43 Vict., ch. 24, sec. 5, the property qualification was clearly insufficient.

*Tizard*, for defendant, put in affidavits to show that the real value of the property was \$2,800. He contended that the amount of the mortgage should be deducted from the real value, and not from the assessed value, in order to arrive at the amount of the defendant's property qualification, and that the oath of qualification never having been changed but referring still to the actual value, the intent of the legislature was clear to base the qualification on the real value after deducting incumbrances. He cited *Reg. ex rel. Bole v. McLean*, 6 Prac. R. 249.

*Davidson*, contra, cited *Reg. ex rel. Flater v. Van Velsor*, 5 Prac. R. 319.

OSLER J. *held* that under the Rev. Stat. O., ch. 70, sec. 70, it is clear that the assessed value of the property only can be looked at in arriving at the amount of the property qualification. Summons made absolute to unseat defendant, with costs, and for a new election.

## CHANCERY

Proudfoot V. C.]

[Jan. 1

BURRITT V. BURRITT.

*Appeal from Master's Report—Liability of co-trustees—Foreign securities.*

A testator who, by his will, expressed the fullest confidence in C. (one of his trustees), directed them to be guided entirely by the judgment of C. as to the sale, disposal and re-investment of his American securities, and declared that his trustees should not be responsible for any loss to be occasioned thereby. C. having made investments of these moneys which proved

worthless, the Master charged his co-trustee R. with the amount thereof.

*Held*, that even if at the suit of creditors R. might have been chargeable, yet as against legatees he was exonerated.

*J. Hoskin*, Q.C., for plaintiff.

*Boyd*, Q.C., contra.

OWENS V. TAYLOR.

*Patent for invention—Novelty—Royalties payable under void patent.*

The mere attaching of the support of the handle of a pump higher or lower in position than that formerly in use, is not the subject of a patent; but P. having obtained a patent therefor which he assigned to the plaintiff who again assigned to the defendant subject to certain royalties,

*Held*, that notwithstanding the invalidity of the patent he was entitled to recover the amounts payable to him under the agreement during the currency thereof.

*Boyd*, Q.C., for plaintiff.

*Moss*, contra.

SCHOOL TRUSTEES OF THE TOWNSHIP OF HAMILTON V. NEILL.

*Officers of corporation—Irregular appointment.*

One T., who acted in the capacity of Secretary-Treasurer of the plaintiffs, who had not been appointed in writing, and had not given security as required by the Statute in that behalf, absconded with certain moneys which had been received by him as such Secretary-Treasurer from the defendants. The plaintiffs had recognized T. as their Secretary-Treasurer by intrusting him with the custody of their books and papers, by allowing him to receive moneys for them, by auditing his accounts and receiving and approving of the auditor's reports.

*Held*, that R. S. O. cap. 204, sec. 99, which provides that, in the case of a rural school section corporation, the resolution, action or proceeding of at least two of the Trustees shall be necessary in order lawfully to bind such corporation, does not apply to acts of duty of the Secretary-Treasurer.

*Held*, also, that, if a person acts notoriously