

Teetzel, J.]

[April 2.]

RE ROBERTSON AND GRAND TRUNK RY. CO.

*Mandamus—Carriage of passengers—Rates and accommodation
—Jurisdiction of Board of Railway Commissioners.*

Two questions must be found in favour of the applicant before the writ of prerogative mandamus can issue; first, has the applicant a specific legal right to the performance of some duty by the respondent; and second, will the applicant without the benefit of the writ be left without effectual remedy?

Where the applicant sought a mandamus to compel the Grand Trunk Railway Company, pursuant to sec. 3 of their Act of incorporation, 16 Viet. c. 27 (C.), to run a train containing third-class carriages, and to permit the applicant to travel therein on payment of a fare not exceeding one penny a mile:—

Held, that the applicant had an adequate remedy under the provisions of the Dominion Railway Act, 1903, (ss. 8, 23, 25, 44, 214, 294, being specially referred to), and that that remedy could be more conveniently applied and executed under the direction and supervision of the Board of Railway Commissioners than by the Court; and the application was refused.

J. W. Curry, K.C., for applicant. *Wallace Nesbitt*, K.C., for respondents.

Falconbridge, C.J. K.B.]

[April 3.]

REX EX REL. ARMSTRONG v. GARRATT.

*Municipal elections—Declaration of qualification to be filed by
candidate after nomination—Declaration made before elec-
tion—Duty of clerk of municipality—Objection taken after
election—Irregularity not affecting result—Municipal Act,
1903, ss. 129(3a), 204.*

The declaration of qualification required by s. 129(3a) of the Municipal Act, 1903, to be filed by a candidate for municipal office in certain cities, within (at the most) 48 hours after the hour of nomination, may be made and subscribed before the nomination. If the declaration tendered on behalf of a candidate be made after the final revision of the assessment roll, upon which the candidate must be qualified, if it avers the