

Then by the Act of 1904, sec. 129 was amended so as to provide that at the time mentioned in the section "a statutory declaration in accordance with the form contained in section 311 of this Act, or to the like effect, that he possesses the necessary qualification for office"—that is, that the candidate or person nominated shall file such a declaration, and that in default of his so doing he shall be deemed to have resigned.

My view is that that is something in addition to what was provided for by sec. 311, and that the reference to sec. 311 is only for the purpose of indicating the form in which the statement was to be made.

The provision that it is to be a statutory declaration, I think is important as indicating that it was to be a declaration of a well-known character made in accordance with the provisions of the Dominion Act and before the officers entitled under that Act to take such declarations.

It may be that it is hard that this gentleman, who obtained his seat by acclamation, should hold it when others, who did not know of the recent change which had been made, were prevented from becoming candidates owing to their having failed to make the necessary declaration. That, of course, must not be made an occasion of straining the law so as to meet a hard case. It must be left entirely to the conscience of the defendants as to the course they shall take when by this decision they are confirmed in their seats.

The appeal is dismissed with costs.

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MARCH 12TH, 1906.

DIVISIONAL COURT.

WOOD v. LONDON STREET R. W. CO.

*Damages—Trial without Jury—Finding of Judge—Action under Fatal Accidents Act—Expectation of Benefit—Nominal Damages—Dismissal of Action without Costs—Appeal.*

Appeal by plaintiff from judgment of MEREDITH, C.J., at the trial, dispensing with a jury, and dismissing without costs an action under the Fatal Accidents Act to recover damages for the death of his son by the negligence of defendants. Defendants did not dispute the liability, but defended upon