

KELLY, J.

JUNE 23RD, 1920.

HOWARD v. TORONTO BOARD OF EDUCATION.

Schools—Public Schools—Transfer and Appointment of High School Teacher to Principalship of Public School—Powers of Board of Education—Procedure at Meeting—Composition of Board—Representatives of Separate School Board—Boards of Education Act, R.S.O. 1914 ch. 269, secs. 22, 23—Internal Management of Board's Affairs—Interference by Court—Confirmation of Appointment—Public Schools Act, R.S.O. 1914 ch. 266, secs. 2 (o), 73 (n), 87 (2)—Rights of Minority—Technical Qualifications of Teacher.

Action by a ratepayer of the City of Toronto, suing on his own behalf and on behalf of all other ratepayers of the city, against the Board of Education of the City of Toronto and Peter F. Munro, who, prior to July, 1919, was a teacher in Riverdale Collegiate Institute, Toronto, for a declaration that the transfer of the defendant Munro, on the 3rd July, 1919, to the principalship of Ryerson Public School, Toronto, and his appointment as principal were wrongful and improper, to restrain the defendant Board from continuing to employ the defendant Munro as principal of Ryerson School, and from employing or using the rates of the city for payment of his salary as such principal, and restraining the defendant Munro from continuing to act in that capacity.

The action was tried without a jury at a Toronto sittings.

C. Carrick, for the plaintiff.

E. P. Brown, for the defendant Board.

E. G. Black, for the defendant Munro.

KELLY, J., in a written judgment, said that the issues raised involved the power of the Board to depart from its by-laws and regulations relating to the administration of its own internal affairs, and incidentally the question of the appointee's qualifications under the requirements of the Department of Education.

By the Boards of Education Act, R.S.O. 1914 ch. 269, sec. 22, a member of a Board who is a Separate School supporter shall not vote on or otherwise take part in any of the proceedings of the Board exclusively affecting the Public Schools.

The appointment was made at a meeting of the Board held on the 3rd July, 1919.

The printed agenda for the meeting designated the matters to come up as:—

Part I. High School matters and questions not exclusively affecting Public Schools.