

have reference therefore to other persons than motormen and having regard to the object of the by-law must be taken to include the conductor as a person having charge of the car and engaged in operating it.

I would refer to the case of *Dawson v. London Street Railway Company*, 18 P.R. 223, wherein an application to examine both the motorman and the conductor of a street car as officers of the street railway company, it was held that they were both officers of the company and examinable for discovery, although in that case it appeared that there was a by-law of the defendant company defining the duties of the conductor and motorman. The evidence given in the present case proves that the duties of the conductor and motorman upon a car of the Toronto Railway Company are similar in all essential respects to the duties defined in the London company's by-laws for the same officers. . . . I also refer to *Leitch v. G. T.R.*, 12 P.R. 541 and in appeal 12 P.R. 671, and again in the Court of Appeal 13 P.R. 369 as defining the position of a conductor on an ordinary railway train. A conductor of a train was considered as a person entrusted with the management of part of the company's business.

The final conclusion I have arrived at therefore is that the meaning and interpretation of the by-law is plain and that the conviction should be affirmed and the present appeal dismissed with costs.

IN THE MATTER OF A COMPLAINT UNDER THE PUBLIC SCHOOLS ACT.

Election of school trustees—Wards—Returning officer—Nomination papers—R.S.O., c. 292, s. 60.

A complaint respecting the validity or mode of conducting the election of public school trustees in the town of Cobourg on the 26th Dec., 1898. The Municipal Amendment Act, 1898 (61 Vict. c. 23) which abolishes ward representation in municipal councils of towns under 500 inhabitants, does not affect the procedure for election of school trustees in which the system of election by ballot prevails under the provisions of s. 58 R.S.O., c. 292, and public school trustees are to be elected, as heretofore, by wards, and not by "a general vote."

The powers and duties of a returning officer are purely ministerial and in no sense judicial.

R.S.O. c. 23, s. 128, s-s. 2, does not restrict the returning officer to one hour for receiving nomination papers, but provides for at least one hour being allowed therefor.

Sufficiency of nomination paper under s-s. 1, s. 128, R.S.O. c. 223 considered. *Reg. ex rel. Corbett v. Jull*, 5 P.R. 41, approved.

[COBOURG, Feb. 7, 1899—Benson, Co. J.]

This was a complaint made under section 60 of The Public Schools Act, respecting the validity or mode of conducting the election of school trustees in the Town of Cobourg, on the 26 Dec., 1898.

Field for complainant. *Holland* for returning officer.

BENSON, Co. J.—Two main questions arise upon this complaint. First, it is contended on the part of the complainant that the election of school trustees should have been by a general vote of the town, and not by a vote