The grounds taken are, that the election was continued on the second day, whereas it is contended that the School Act requiring the election to take place on a particular day, precludes the adjournment and continuance of it; and, further, that several of the parties voting for the successful candidate, were not duly qualified, and that therefore the actual majority of good votes was on the side of the relator.

Numerous affidavits, as to the votes, were filed on both sides. It was conceded that the election was continued on the second day, but it does not appear that this course was protested against.

At the close of the first day the poll seems to have stood, as sworn by the returning officer, 21 to 19. At the close of the second day the majority was apparently on the same side. Three main questions, each involving more than one point of investigation, come up on the law and the affidavits.

1st. Can the Judge *compel* a new election to take place in any case under this Statute; and if he can, by what practice and in what way can he proceed to do so?

2nd. Can the election occupy more than one day, and if not, does the error render invalid the whole proceeding?

3rd. If the election is to be decided by the first day's polling, which of the votes are bad on the facts appearing on the evidence?

I shall begin by deciding the last of these questions, and so on to the first.

The vote of one man on the side of the defendant is plainly shown to be bad. He neither paid taxes nor was he rated on the assessment roll, nor, I think, a resident. This reduces the majority to one only. Other votes are contended, on both sides, to be bad, because the voters did not actually pay their taxes, but agreed with their employer (they being hands in a manufactory) that he should pay their taxes and charge them, and the collector was cognizant of this and assented to it. He was in fact paid by the employer, though not till some little while after the required time. There is no evidence that the men were warned that their employer was not keeping faith in the matter, or that the collector let them know that they must pay and he would look no longer to the other. The arrangement seems to have been well understood and fairly carried out. I cannot hold that these voters were disfranchised. They paid their taxes in such way that the collector cannot be now looked upon by the law as entitled to say they did *not* pay. The compact having been ultimately fulfilled must relate back to its inception, or the parties would be disfranchised from no fault of their own, and, without any opportunity being given them to prevent the default by repudiating the arrangement, to which it is clearly proven the collector was a party. These votes then remain unimpeached. The votes stood then, according to the returning officer's book or list, after taking off the bad votes, 19 to 20. But the relator contends that one Bell, who is returned as having voted on the *second* day for the minority candidate, in fact voted on the *first* day, so that the votes were in fact equal at the close of the first day's poll, and therefore a new election must be ordered. On this point the evidence is most disreputably conflicting. So conflicting indeed, that it is hard to escape from the painful conclusion that some one or other of the witnesses may have permitted electioneering excitement to lead them to forget that care and caution with which statements on oath ought to be made. It is clear that all cannot have sworn without exaggerating and perverting the circumstances. But, after balancing the statements of third parties, which are pretty nearly even, I take the statement of the returning officer, who swears that his entry now produced was made at the time, showing the vote for the second day, and that the appearance of Bell on the first day was not until after the poll-book had been closed. Had the majority on the second day turned against the defendant, the vote of Bell might have to be considered in another point of view. As it is, I take it not to have come into the first day's polling; and I conclude that the defendant had, on the first day's polling, a majority of one. This answers the third proposition or question which I have laid down for consideration.

The second question is as to the continuance of the election on the second day, and whether all the proceedings must therefore be set aside. On this point several authorities were cited. To most of them I have referred, and they support the proposition of *Mr. Cameron* on the part of the relator, namely, that as a general rule, when an election is directed to be held on a particular day, it will be bad if held on another day. But none of them go clearly to the point as to the *continuing* the proceedings on a second day where they have been properly commenced and there is no protest. That question is a new one, and the recent decision of the learned Judge of the county of York is the only one I know of coming near it. He held the election totally bad because it was continued on the second day, but in that case, it is quite clear, there was a protest; and even then the matter seemed so open to reasonable doubt, that no blame was attached to the returning officer, although the Act under which we are now proceeding expressly gives power to the Judge to enquire into the officer's conduct, and to impose a fine if he shall have "disregarded the requirements of the law." Were the enactment simply, that the election should be holden on a certain day, there could be no difficulty in acquiescing in the decision of his honour *Judge Harrison*, that the election must be finished on that day. But the Act of 13 & 14 Vic., cap. 48, governing the election of School Trustees does not merely give that simple direction; it directs the election to be held and conducted in the "*same manner as ordinary municipal elections.*" When this Act was passed, every "ordinary municipal election" was held under the 12 Vic., cap. 81, the old Municipal Act, and which gives *a day* for the holding of the elections, just as distinctly as does the School Act, but the 159th section is superadded, which distinctly lays down the mode of proceeding on a second day if the election is not finished on the first. This, it would seem, was the practice contemplated by the legislature, when they used the words "in the same manner." In holding otherwise one would be met by this difficulty. But for the 159th sec. of 12 Vic., no "*manner*" of electing is prescribed, and we can only get clearly at the proper mode of proceeding by taking this 159th sec. to be imported into the subsequent Act of 13 & 14 Vic. by the clause already cited. Acts of parliament must be construed, if it can be done consistently with their express words, in such way as to give effect to and not to cripple, what may be reasonably taken to be the intention of the framers of the law. I cannot suppose that it should be considered compulsory to finish the election on the one day, when the legislature, so far from saying that the return shall be made at the end of the first day, "*directs*" the proceeding to be in the "same manner" as at municipal elections which continue for two days, unless brought to an end by the omission to vote for one hour. That the law leans against construing such enactments strictly in reference to words, and favours an interpretation more consonant with the apparent intention, is strongly laid down in several cases; for instance, *Rex v. Norwich*, 1 B. and Ad. 308; and *Rex v. Greet*, 8 B. and Cr. 361. But for the decision at Toronto, before referred to, I should have felt warranted in deciding that it was proper to hold the election for two days, in any case, but in deference to that decision I do not lay down that rule now, as it is not absolutely necessary for the determination of the present question; but, in the absence of any protest such as was made in the Toronto case, I am of opinion that the defendant was *de facto* elected to the office. The declaration was made on the second day, and whether the state of the poll on the first or second day be taken as the criterion, the result might have been the same. This is disputed, and I have not scrutinised the votes of the second day, both because the complaint is on an opposite ground, and the character of the votes is immaterial to the grounds on which I refuse to interfere. It was strongly argued on the part of the relator, that the continuation