

Treadgold, John Fingland, and Richard Ashley, as councillors for the town of Brampton, upon the ground that the nomination of candidates for councillors was held at 10 o'clock in the forenoon of Monday, 29th December, 1902, for one hour, instead of at noon of the same day.

E. G. Graham, Brampton, for relator.

T. J. Blain, Brampton, for respondents.

THE MASTER held that the Legislature having by sec. 119 of the Municipal Act, expressly fixed the hour of noon for such nominations, the council had no power by by-law or otherwise to alter the hour. The time of holding an election is a matter of substance; the nomination is the commencement of the election. The authority to hold an election at one time will not warrant an election at another time: Am. & Eng. Encyc. of Law, 2nd ed., vol. 10, p. 679; Re East Simcoe Election, 1 Ont. Elec. Cas. 291, 308-322, 336-7. The provision of the statute is not merely directory, but imperative. The holding the election at the wrong hour is not a mere irregularity coming within sec. 204 of the Act, the "saving clause."

Order made setting aside the election and directing the holding of a new election, with costs.

STREET, J.

FEBRUARY 4TH, 1903.

CHAMBERS.

RE POLLOCK.

Will—Bequest to Widow during Widowhood—Dower—Election—Acceptance of Benefit—Intestacy—Discretionary Power to Sell—Conversion of Realty into Personalty.

Application by executors and widow of James Pollock, deceased, from an order declaring construction of will. Testator died 29th August, 1898, leaving widow and two infant children. By the will he devised and bequeathed all his real and personal estate as follows: "First, my wife shall have the sole use of all my real estate and personal property . . . or so much of the same as shall be necessary for the proper maintenance of herself and my two sons . . . as long as she remains my widow or until my eldest son . . . comes of the full age of 21 years, and in the event of my wife ceasing to be my widow, her maintenance shall cease. . . . Second, when my eldest son arrives at the full age of twenty-one years I direct that he shall receive one-third of my real estate and one-half of my personal property or an equivalent value thereof, and that an equal share . . . shall be held in trust by my executors for my second son . . . until he comes of the full age of 21 years. Third, I further