

Cobourg School Trustee Case.

Cobourg, Feb. 11.—Judge Benson has ordered that the election of Major John McCaughey as public school trustee for the east ward of the town of Cobourg be set aside, and that he be removed from the said office and a new election held. The case has excited a great deal of interest in this locality, and the issues raised and points determined are of general interest. Six years ago the Cobourg Public School Board passed a resolution providing that the election of school trustees should be held at the same time and place by the same returning officers and in the same manner as elections of municipal councillors, and by ballot. In 1898, the Ontario Legislature, by what is known as the "Caven bill," enacted that in towns of less than 5,000 by the last Canadian census the ward system of representation should be abolished, and municipal councillors elected, like mayors, by general vote, and by section 128 of the Municipal Act nominations are required to be in writing. Mr. D. H. Minaker, town clerk, issued a proclamation convening a meeting of the electors for the nomination of councillors and mayor and for school trustees for each of the three wards, the time fixed being 10 a. m. During the hour between 10 and 11 one name each was proposed for school trustee for the west and centre wards, and the names of John McCaughey and William Barr, the latter being the retiring trustee, were presented for the east ward. Mr. Barr's nomination paper, however, though in all other respects valid, did not mention the name of the ward. When the town clerk pointed this fact out it was claimed on behalf of Mr. Barr's nominator, that he had supposed that the ward system of representation had been abolished as well for school trustee as for councillors. The clerk consulted some lawyers, and coming to the conclusion that he could assume judicial functions in the matter, decided to reject Mr. Barr's nomination, and declared Mr. McCaughey elected by acclamation. Mr. William Kinsman, the seconder of Mr. Barr, took the matter up and lodged a complaint, and appeared, with Mr. Frank M. Field as his counsel, in support of his complaint before County Judge Benson, Mr. H. F. Holland appeared as counsel for the returning officer, Mr. D. Minaker. Judge Benson took the view of the petitioner and decided that Mr. McCaughey's election was invalid, and ordered that a new election be held. A hot election is likely to ensue, Mr. Barr having six years ago defeated the major by a few votes and having held the seat ever since until turned out as described.—*Globe*.

The questions involved in the foregoing case are interesting, and it is to be regretted that the legal points involved have not been set forth more clearly in the report of the case. The report states that the legislature, by what is known as Caven's Bill, enacted that in towns of less than 5,000 by the last Canadian census, the ward system of representation should be abolished. Upon reference to the act referred to, which is the Municipal Amendment Act, 1898, we do not find that the legislature abolished the ward system. The following is the language used: "71a.—1. The council of every town having a population of not more than 5,000, by the last Canadian census, shall consist of a mayor, who shall be the head thereof, and of six councillors to be elected by a general vote." There is nothing in this section showing that the legislature intended to abolish the ward system. It simply amounts to this, that the ward divisions are ignored so far as the election of councillors is concerned in

towns having not more than 5,000 or a population, but the wards still exist for other purposes. Suppose, for illustration, that a by-law is being submitted to the electors for their assent, in such a municipality as this, a person would be entitled to vote in each ward in which he possessed the necessary qualifications. See section 355 of the Municipal Act, which provides: "Where a municipality is divided into wards, each ratepayer shall be so entitled to vote in each ward in which he has the qualifications necessary to entitle him to vote on the by-law." Sec. 158 provides: "In towns and cities every elector may vote in each ward in which he has been rated for the necessary property qualifications, but in case of mayor of cities or mayor, reeve or deputy-reeve of towns, the elector shall be limited to one vote." The Deputy-Attorney-General some time ago expressed the opinion that an elector was entitled to vote in a town having a population of not more than 5,000, for each councillor in every ward in which he had sufficient property qualifications, but if his interpretation is correct we are satisfied that the Legislature never thought when it enacted the Caven Bill that it was thereby giving an elector more than one vote for each councillor or it would have said so expressly. If the ward system was abolished by the act of 1898, the school trustees in Cobourg would have to be elected by general vote throughout the whole municipality, but we think that the wards existed in Cobourg at the time of the election in question and that it was therefore proper to nominate and elect a trustee for each ward to be voted for in each ward as formerly and not by general vote. Section 58 (1) of the Public Schools Act entitles the board of school trustees to give notice to the clerk of the municipality in the manner therein provided, that they require the election of school trustees to be by ballot and to take place at the same time as the municipal elections, and though sub-section (3) of the same sub-section provides that where such notice is given the elections shall be conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted, yet that does not mean that the trustees are to be elected by a general vote over the whole municipality in towns in which the councillors are elected by a general vote. Sub-section (4) provides that a separate set of ballot-papers shall be prepared by the clerk of the municipality for all the wards containing the names of the candidates nominated for school trustees, of the same form as those used for councillors or aldermen except the substitution of the word "school trustee" for councillor or alderman as the case may be. This provision indicates that it was not intended by the legislature that trustees should be elected by general vote over the whole municipality and moreover we do not think the act of 1898, so general in its

terms, can be read into the School Act. Assuming that the election in question was conducted in the manner in which we think it should have been, the only point remaining for consideration is whether the nomination paper was required at all and if so whether it was in proper form. Reading sections 128 (1) of the Municipal Act and section 58 (3) of the School Act we think the nomination had to be in writing. Mr. Barr's nomination was in writing and the only objection to it appears to have been that it did not mention the ward for which he was nominated. We do not think there is anything in the objection. Sub-section (1) of section 128 provides "at such meetings, the person or persons to fill each office shall be proposed and seconded seriatim and every such nomination shall be in writing, shall state the full name, place of residence and occupation of the candidate and shall be signed by his proposer and seconder." It will be seen that this section does not require the municipality or ward to be mentioned. The clerk was the presiding officer and he knew that Mr. McCaughey and Mr. Barr were nominated for the east ward and he ought to have prepared the ballots accordingly. We may say that we are pleased to receive notes of cases of interest to our subscribers such as this one but it would be more satisfactory to get a copy of the judgment rather than newspaper reports of it, which are not always reliable and contain more than we require for publication.

Was Sure of Office.

"I reckon," said the veteran colored voter, "dat in all de 'leckshuns ter come in dis country I'll play a mighty prominent part."

"Why so?"

"Well, you see, hit's dis way: De very las' member er my fambly done come er age, en takin de boys one by one dey's sixteen er 'em, all ready ter vote, en wid constitutions dat kin stan all de votin you kin put on 'em! Yes, suh, I'm gwint ter be somepin mo' dan a figgerhead in de nex' votin time!"—*Atlanta Constitution*.

A councillor of an English town was present at a meeting when the subject of planting trees in the borough was under discussion. He objected to the scheme in these words: "I will never vote for the granting of a sum of the ratepayers' money toward planting a revenue of trees in the streets of this town." On another occasion the same man was discussing the question of education with a friend, when he made the remark that he was going to give his daughter a good education, and should send her to a first-class cemetery to be finished off.

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