

asked to administer the oath to Shannon, as to his residence in the municipality; that he put the book into Shannon's hands, and was about administering it, having read over the oath preparatory thereto, when the relator or those acting with him insisted on the officer administering the whole oath or series of oaths in section 97, sub-sec. 9, of the Municipal Act, including that which referred only to the case of a new municipality, and that it was not from any unwillingness, but only from the excessive demand that the oath was not administered to Shannon.

John McNeily, referred to, swore that he was the person who voted for defendant, and that he is the person who was assessed on the last assessment roll. That his son, also named John McNeily, who resided with him was not assessed.

James English, the assessor of the township for 1864, swore that John McNeily the elder was assessed and not his son. He also swore that the voters Robert White and Thomas Baldwin, who were respectively assessed at \$35 and \$45, were so assessed for the respective houses occupied by them, and that he placed their assessments in the column for the value of personal property under the impression that householders were not rated as for real property, marking each assessment with the word "house," indicating that it was in respect of the said houses that they were assessed. A copy of so much of the last revised assessment roll as related to the persons who voted in ward No. 1 was put in, and which was sworn to as being true and correct by the clerk of the township.

Thomas Baldwin swore as to having voted for defendant, being assessed on the last revised roll as a householder. That the house in which he resided was a part of lot six in the first concession. That he had resided there for eleven years past as tenant to one David Balfour, and that he paid \$18 rent a year and had done so for the last eleven years.

MORRISON, J.—With reference to the alleged misconduct of the returning officer in the case of John McNeily, it is I think disposed of by the returning officer's affidavit as well as the affidavit of the assessor and the voter himself, which places it beyond dispute that the elector was entitled to vote.

Then as to the case of Shannon, the relator swears that he required the returning officer to administer each of the oaths required by law to the voter as he states, to test the truth as to the place of residence of Shannon prior to said election, as well as other matters connected with his right to vote. What the other matters were that the relator refers to is not stated. When I look at the explanation given by the returning officer and the series of oaths enumerated in sec. 97, sub-sec. 9, I am rather led to think that the relator's object was merely to annoy the voter and not for any *bona fide* object, and we can well understand when a candidate resorts to such a proceeding that confusion and misunderstanding as to the circumstances will likely arise. I notice that the relator swears that in consequence of the returning officer refusing to administer the oaths to McNeily and Shannon he considered it useless to administer the oaths to others against whom he had objections, but by the copy of the poll book filed by the relator it appears that Shannon was the ninety-fourth person who voted, ninety-eight

being the whole number, and of the last four, two voted for the relator.

Under the 75th clause of the Municipal Act, the electors of every municipality, &c., shall be the male freeholders thereof, and such of the householders thereof as have been resident therein for one month next before the election, who are natural born subjects, &c., of Her Majesty, of the full age of twenty-one years and who were severally rated on the revised assessment rolls for real property in the municipality, &c., held in their own right as proprietor or tenants. With regard to nine of the votes objected to by the relator, viz., number three to eleven inclusive, on account of the voters not having a property qualification, it appears that they are all rated on the last revised assessment roll, and were returned and entered in the list delivered to the returning officer.

Mr. Patterson, on the part of the defendant, objected to going behind the assessment roll, contending that the roll itself as to the property qualification is binding and conclusive. It is very apparent upon a reference to the various clauses in the municipal and assessment acts, both of which statutes are intimately connected with and depending upon the enactments of the other, that every care has been taken by the legislature to ensure a true and correct assessment and rating of property. Provision has been made for giving to the assessment rolls full publicity, and the right of objection by any elector to any matters appearing therein; among others, "if any person has been wrongfully inserted on it," and a mode of procedure is laid down affording ample opportunity to hear and determine all complaints and to revise all errors, &c., with a view to accuracy and finality, and we cannot but suppose that one of the objects of the legislature was to ascertain and determine who was entitled to vote. The 61st sec. of the Assessment Act enacts that the roll as finally passed &c., shall be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, except in so far as the same may be amended in appeal to the judge of the county court.

A consideration of the 75th clause of the Municipal Act, declaring who are entitled to vote with the 9th sub-sec. of the 97th clause, which enacts what oaths shall be administered to electors, provisions being only made in the latter for matters *dehors* the assessment roll, in my judgment, strongly evince that the intention of the legislature was to make the roll conclusive as regards property qualification, and this view is strengthened by the words at the end of the 9th sub-sec., enacting that no enquiry shall be made of the voter, except with respect to the facts specified in the oaths.

No case was cited to me on the argument supporting the view taken by the relator's counsel, and I am not disposed, were it open for me to do so in the absence of anything to give effect to objections leading to the obvious inconveniences which would necessarily arise if held good. Were I do so in my judgment one of the most important objects of our municipal system would be defeated. I am therefore of opinion that the objections made to the nine votes referred to are not valid and ought not to be allowed.

The only votes objected to remaining to be dis-