

municipal corporation who was at the time of his election a member of a school board for which rates are levied, whether levied by the municipal corporation to the council of which he was elected, or by any other.

As to the third objection, namely, that the respondent having been elected a school trustee before the passing of the amending Act, the saving clause relieves him from disqualification, I do not agree with the argument. The saving clause refers to the election of the member of the council of any municipal corporation, not to the election of a school trustee.

Rex ex rel. Zimmerman v. Steele, ante 242, followed as to all the objections.

The election must be set aside, and there must be a new election.

The costs have been unnecessarily increased by reason of the relator applying to be seated in the place of the respondent. It is true that the respondent might have disclaimed and saved further expense, but that would have given the seat to the relator, who has been found to be not entitled to it, and who does not appear to have had at the time of the election the confidence of a sufficient number of electors to elect him. Under the circumstances, while giving the relator the costs of the proceedings against the respondent so far as he has succeeded, he must pay the respondent his costs of opposing the application to seat the relator; the costs of the one to be set off against the costs of the other pro tanto.

WINCHESTER, MASTER.

APRIL 6TH, 1903.

CHAMBERS.

REX EX REL. ROBINSON v. McCARTY.

Municipal Elections—Township Councillor—Disqualification — Membership in School Board for which Rates are Levied—Statutes—Claim to Seat—Objection not Taken at Nomination—Costs—Status of Relator—Nominee of Township Clerk.

Application in the nature of a quo warranto to set aside the election of the respondent as a councillor for the township of East Nissouri, in the county of Oxford, and to have it declared that one Thomas Richardson should be admitted to the office instead, upon the ground that the respondent was disqualified by reason of being at the date of the election a member of the school board for union school section 5 in the township of East Nissouri, a school board for which rates are levied.

J. P. Mabee, K.C., for relator.

A. B. Aylesworth, K.C., for respondent.