

"I think the notice was invalid under the Act. I do not enter into an academic discussion as to whether it was null and void. I think all that I am required to do is to determine whether it was a valid or invalid notice, and I say it was invalid, and my reason for thus deciding is that no grounds are stated by them why the man's name should be removed, and thus it is invalid under the Act. So far as the rest of the appeal is presented for my consideration, I am of opinion that under the 33rd section my power is confined to the action of the revising officer with the list; that is to say, as to the proper admission of names or exclusion of them, being as to something which is or should be in the list or which ought not to be in it. It is not said that there is an appeal to the county judge as to the proceedings of the revising officer which would be a comprehensive term such as is used in section 26. I consider that I have no authority to interfere with the action of the revising officer in amending or adjourning the court to a future time. Whatever may be the importance of my ruling as to the question whether the notice in question is insufficient or invalid and null and void, as I am pressed to decide, I do so, and rule as I have said, that it is invalid under the Act, and so far the appeal is sustained, but in respect to my authority to interfere with the revising officer's power to order amendment or to adjourn the court I do not entertain the appeal."

Now, Mr. Speaker, the revising officer, upon that ruling of the county judge, refused to proceed. He had adjourned his court to a future day and he had given the parties leave to amend their notice, but after this decision he refused to proceed. The County Court judge himself admits that he had not the power to deal with this question of procedure, that he had no authority under the Act to express an opinion on the subject or to adjudicate on it, and the subject was taken before the Court of Queen's Bench. An application was there made for a writ of mandamus to compel the revising officer to proceed and to discharge his duty, which writ was granted. The decision of the whole court was this: that the notice was sufficient; they dissented from the view taken by the county judge; they held "not qualified" was a sufficient notice. Every one of these persons were on the voters' lists for some qualification or other, and certainly "not qualified" meant not qualified in the character in which they were entered on the list. The Court of Queen's Bench therefore held in the first place that the notice was sufficient, and in the second place that no appeal is given by the Act to the county judge from the revising officer's decision. Therefore, that the proceedings before the County Court judge were *coram non iudice*, and so these proceedings being nugatory were set aside. The revising officer acting upon the decision of the Court of Queen's Bench, proceeded to adjudicate upon these names, and 228 of them, all the names that are in controversy, were struck off the voters' lists. That was the decision, although they are subsequently printed on the list. There can be no dispute whatever that the decision was that they should be struck off. Now, there was an appeal from that decision of the Court of Queen's Bench to the Court of Appeals, and the Court of Appeals held that as the revising officer had acted upon the writ and obeyed the command of the court, that there was nothing before the court to decide, and that they were not called upon to say whether the Court of Queen's Bench had the power to order the revising officer to proceed or not. He had acted; he could not recall what he had done, he could not undo what he had done, and the validity of his act would not at all be affected by the question whether the Court of Queen's Bench possessed this power, or whether it did not. But the Court of Appeals held the notice was sufficient. And so the

matter stood. Now, Sir, in the first place, when the application was made to the Court of Queen's Bench and the revising officer proceeded with the work of revising the list, an appeal was had; an application was made in the meantime to the county judge to consider by way of appeal the decision of the revising officer in reference to these names. The county judge said: I will not adjudicate upon the matter at present, I will postpone the consideration of the subject until there is a decision by the Court of Appeals. There was a decision by the Court of Appeals, and then an appeal was had from the decision of the Court of Appeals to the Supreme Court of Canada, and when the second application was made the County Court said: I will not adjudicate until there is a decision by the Supreme Court, and so there has been no time and no place fixed to this day for the consideration of these appeals. I wish to call the attention of the House, in the first place, to this matter. It seems to me, from looking at the provisions of the Act, that it is only when a question of merit is involved, a question of the right of the party as a voter to be on the voters' lists, that there is an appeal from the decision of the revising officer to the County Court judge. On a mere matter of procedure—since the revising officer is not bound to conform to the ordinary rules of a court of justice, but is given a greater latitude to enable him to make his proceedings effective, in view of the absence of knowledge of the law by the voters—that in that matter he is acting in accordance with his discretion, and a matter of discretion cannot be a matter of appeal. It is not pretended—or at all events it has not been pretended—that these persons had any right to be on the list, or that they were in any sense qualified by law to vote. That was not the contention; the contention was that the notice to strike off had not been sufficiently definite, and that contention the Court of Appeals and the Court of Queen's Bench both held was an erroneous view. The revising officer proceeded: he heard the evidence so far as there was evidence to submit, and the names of these persons were struck off the roll. Now, if we look at section 64 which provides for a recount under certain circumstances, among other things which are provided for is this:

"That any person voting at such election, whose name was included on any list of voters used at such election, or whose name was excluded from any such list, and whose right to have his name so included on the said list, or the exclusion of whose name from such list, as the case may be, appeared by such list to be the subject of an appeal pending and undecided under the provisions of the Electoral Franchise Act, and that judgment has been rendered on such appeal deciding that such person was not entitled to have his name so registered upon said list, or that the name of such person was properly excluded therefrom, as the case may be."

Now, that is one class of persons, that is one ground upon which a recount by the County Court judge may be sought, but I ask the attention of the House to subsection 2 of this section, which reads as follows:—

"If any such appeal in respect of any person whose name is entered on the poll book as having voted at such election is not decided before the expiration of the said four days allowed for the making of an application for a recount, the time for the making of such application for a recount on the ground of the result of the decision of any such appeal shall be extended for and until the expiration of six days after the decision of any such appeal."

It is not stated that the recount shall be postponed;