

to elect trustees to fill vacancies, the district board may, upon the written requisition of five ratepayers, accompanied by a certificate from the inspector of schools that the alleged vacancies actually exist, appoint a trustee or trustees.

Held, per RUSSELL, J., MEAGHER, J., concurring, GRAHAM, E.J., dissenting, that the presentation of a certificate in writing from the inspector was a prerequisite to the exercise of the power of appointment on the part of the district board.

Held, nevertheless per RUSSELL, J., that as there were no other persons than those whose title to the office was attacked who could claim to have been elected, and as there was no machinery by which any persons other than the de facto trustees could have been elected, the court should refuse the application and confirm the judgment of the trial judge, but without costs to defendants, they having failed to establish any legal title to the office.

Where a new school section was constituted and it became necessary to elect trustees, but the meeting called for that purpose was adjourned without having accomplished the purpose for which it was called.

Held, 1. There was nevertheless a meeting within the words of the statute sufficient to give jurisdiction to the district board to make the appointments which the meeting had failed to make.

2. The validity of certain of the votes cast for one or the other of two candidates being largely a question of fact depending upon the location of certain lines, the finding of the trial judge on such question should not be disturbed.

3. Per GRAHAM E.J., that where the description in determining the right of certain ratepayers to vote, depended upon courses by compass which were uncertain, the special description of the men by name, which was certain, should be taken.

O'Connor, in support of appeal. Mackay, K.C., contra.

Full Court.]

[Dec. 11, 1929.

CILAPPELL BROS. & CO. v. CITY OF SYDNEY.

Municipal corporation—Liability on contract for plans and specifications—Construction of Act—Architects—Remuneration where work not proceeded with.

By a special Act of the Legislature of Nova Scotia (Acts of 1903, c. 169), reciting the gift to defendant of the sum of \$15,000 for the erection of a library building on certain conditions, including the providing of a site for the building and a yearly sum