

might have an opportunity of nominating another candidate: Regina ex rel. Ford v. McRae, 5 P. R. 309, 315; Regina ex rel. Tinning v. Edgar, 4 P. R. 36; Regina ex rel. Adamson v. Boyd, *ib.* 204. . . .

The statute under which it is contended that the respondent is disqualified is 2 Edw. VII. ch. 29, sec. 5, which amends sec. 80 of the Municipal Act by inserting therein, after the word "trustee" in the 8th line, the words "and no member of a school board for which rates are levied." . . .

The evidence herein shews that the respondent was elected a member of the board of school trustees for school section 3 of the township of Mara on or about the last Wednesday in December, 1900, for a term of three years from that date. On or about the 15th January, 1903, he resigned the office of school trustee, with the consent expressed in writing of his colleagues in office, as provided by sec. 16 of the Public Schools Act, 1 Edw. VII. ch. 39. This was before taking the declarations of property qualification and of office required to be taken by all members of county councils before taking their seats.

It was contended for the respondent:

First, that sec. 76 of the Municipal Act, relating to the qualifications of different members of local municipalities, does not relate to the qualification of a county councillor, and therefore cannot be considered in connection with sec. 80, relating to the disqualification of members of the council of any municipal corporation; and that, under sec. 80, as amended by 2 Edw. VII. ch. 29, sec. 5, the respondent was not disqualified when he became a member of the county council, that is, when he took his seat.

Second, that the amendment refers only to members of a council of the same municipality which levies the rates for the school board of which the councillor is also a member, and therefore, as the county council of which respondent is a member does not levy rates for the school board in question, the respondent is not disqualified

Third, that the saving clause in the amending section, viz., "this amendment shall not apply so as to disqualify any person elected prior to the passing of this Act," enures to the benefit of the respondent, as he was elected a school trustee before the passing of the Act.

As to the first objection, I agree that sec. 76 does not apply to county councillors. . . . Section 77 provides for the qualifications of a county councillor. . . . The words "and is not disqualified under this Act," used in sec. 76, are omitted from sec. 77, and it is therefore argued that