2nd, the day of the said polling, John Haggart presented himself as a candidate to the returning officer: that the returning officer would not place the name of the said John Haggart in his poll-book as a candidate for reeve, and would not record any votes for him, although many (some eighty-two) were tendered for him; and that if the returning officer had received votes for John Haggart, he would have been elected reeve of the said village, instead of Kenneth Chisholm, who was declared duly elected.

The returning officer, in his affidavit, swore:

1. "That I was chairman of the meeting of electors held in the village of Brampton, on the 19th December last, for the nomination of candidates for the office of reeve, and I took the chair thereat at noon of the said day; and in the course of an hour thereafter, five candidates, being the same as are mentioned in the statement of the relator herein were duly nominated for said office; and after such nominations they all addressed the electors present at the meeting; and John Coyne, the said relator, and James Fleming, and John Haggart, at the close of their respective addresses, declared that they were not candidates for the said office, and withdrew from the contest therefor; and as each of them did so, I struck his name off the list of candidates for said office; and no person present at said meeting made any objection to the withdrawal of the said candidates; and although the relator was present at said meeting, and knew of the withdrawal of said Haggart and the said other candidates, he did not object thereto; and I believe the said relator and the said John Haggart also believed at the time that all the said withdrawals were complete abandonments of their candidatures by said parties.

2. "After the said relator and the said John Haggart and James Fleming had withdrawn as aforesaid, I read out the names of the defendant and Jacob Paul Clark as the candidates for the said office (the relator being present and making no objection), and I adjourned the meeting to 2nd day of January, stating at the time that the candidates for the said office who remained on the list after the said withdrawals, were the defendant and said Clark.

3. "That there was no show of hands called for said candidates; but the said John Haggart, in his address to the electors, stated that if he was to be opposed, he would not contest the election; and in order to see what opposition he would be subjected to, he called on those who were in his favor as against Mr. Clark (who was thought to be the only person who would contest the election with him), to hold up their hands; but only a small proportion of the electors did so, and the majority of those who did, were in favor of said Haggart; and he then asked Clark if he intended to contest the election with him, and Clark said he did; whereupon the said John Haggart announced that he withdrew from the contest, and desired me to strike his name from the list of candidates, and I did so.

4. "All the proceedings aforesaid took place at said meeting, and were part of the proceedings thereof, before I announced that the only candidates standing were the defendant and said Clark; and no one made any objection to said proceedings or to any of the said withdrawals; and the relator was present during the whole time."

R. A. Harrison, Q C., and *J. K. Kerr*, showed cause.

1. Though at first a candidate, yet, under the authorities and the circumstances of this case, Haggart was not, at the close of the nomination, a candidate.

2. The relator acquiesced in the withdrawal, and cannot now be heard: *Reg. ex rel. Rosebush* v. *Parker*, 2 U. C. C. P. 15; *In re Kelly* v *Macarow*, 14 U. C. C. P. 457; *Reg. ex rel. Bugg* v. *Bell*, 4 Prac. Rep. 226.

3. Where there is no probability shown that a new election would make a change in the person elected, mere irregularity is no ground for setting aside the election. See *Morris* v. *Burdett*, 1 M. & S. 212; *Reg. ex rel. Charles* v. *Lewis*, 2 Ch. R. 171; *Reg ex rel. Walker* v. *Mitchell*, 4 Prac. Rep. 218.

J. H. Cameron, Q C., and *Dr McMichael*, supported the summons, citing *The Queen* v. *Mayor of Leeds*, 11 A. & E. 512; *Reg.* v. *Bower*, 1 B. & C. 585; *Reg.* v. *England*, 2 Leach, C. C. 767; *Reg.* v. *Woodrow*, 2 T. R. 731; *The King* v. *Burder*, 4 T. R. 778; Comyn's Digest, Title Indictment, D.; Municipal Act of 1866, sec. 186; Har. Mun. Man p. 91; *Reg.* v. *Mooney*, 20 L. T. Q B. 265; *The Queen* v. *Preece*, 5 Q B. 94.

Mr. DALTON.—Upon the objection, which has been urged, to the defendant's election as reeve of Brampton, I will read the affidavit of Mr. McCulla, the returning officer, as containing a statement of the facts upon which I act. Mr. McCulla is in an official position, independent of both parties, and gives a very clear statement of what occurred, which I have no doubt is quite correct. Indeed I do not know that there is any dispute at all as to what took place at the nomination. He says: [Mr. Dalton here read the extract from the affidavit of the returning officer, which is given above.]

It seems to me to be very clear, whatever may be the derivation of the word, that a "candidate," in the sense of the statute, is one put forward for election, no matter whether with or against his own will; from which it would seem to follow that he cannot, without the assent of others, resign. His assent is not necessary to his candidature, but he must have a proposer and seconder. He need not be present at the meeting, and his dissent from the proceeding is unavailing.

But the question is, can a candidate, once nominated, be withdrawn? It is difficult to comprehend why this cannot be done before the close of the meeting, with the assent of all concerned; for every one then acts of his own free will, with a full knowledge of the facts. Contracts can be dissolved by the will of those who made them. There are exceptions, but it is *generally* true; and it is the *general* rule that the legal effect of all action may be annulled or reversed by the common agreement of *all* who are concerned. Why then, before being acted on, cannot a nomination be withdrawn, as here, by the candidate himself, his proposer and seconder, and the electors present? It is true that the clause of the Act does not speak of any power of resignation or withdrawal, but directs that the poll-book shall contain the names of the candidates "proposed and seconded," which no doubt means the names of *all candidates* proposed and seconded. But the answer to this seems to be, that when the nomination is withdrawn at the meeting by the agreement of every