

COUNTY COURT OF THE COUNTY OF SIMCOE.

VANCE, Co. C.J.

FEBRUARY 1ST, 1919.

RE BARRIE BOARD OF EDUCATION.

Public Schools—Election of Trustees—Neglect to File Declarations of Qualification—Election Set aside on Summary Application under sec. 64 of the Public Schools Act—Sec. 61 (4) of Act—Sec. 69 (4) and (6) of the Municipal Act.

At the annual election of school trustees, four were to be elected; six persons were nominated; all went to the poll; and four were declared elected.

None of the six filed a declaration of qualification.

A complaint was made by one Wallwin under sec. 64 of the Public Schools Act, R.S.O. 1914 ch. 266.

W. A. J. Bell, K.C., for the applicant.

W. A. Boys, K.C., for the persons declared elected.

VANCE, Co.C.J., set aside the election and ordered a new election, on the ground that the election held was invalid because declarations of qualification were not filed.

By sec. 61 (4) of the Public Schools Act, the provisions of the Municipal Act, respecting the time and manner of holding the election, including the mode of receiving nominations for office, and the resignation of persons nominated, vacancies, and *declarations of qualification and office*, shall *mutatis mutandis* apply to the election of school trustees.

By sec. 69 (4) of the Municipal Act, R.S.O. 1914 ch. 192, which the learned Judge held to be made applicable by sec. 61 (4) of the Public Schools Act, in an urban municipality every candidate for any municipal office shall on nomination-day, or before 9 o'clock p.m. on the following day, file in the office of the clerk a declaration, Form 2, i.e., a declaration of qualification. And, by sub-sec. (6), if the declaration is not filed within the time mentioned in sub-sec. (4), the candidate in default shall be deemed to have resigned, and his name shall be removed from the list of candidates and shall not be printed on the ballot-paper.

In the Public Schools Act of 1909, 9 Edw. VII. ch. 89, sec. 61 (4) is in the same words as that section in the revised statute, except that the earlier enactment has "declarations of office," instead of "declarations of qualification and office."

Probably the change has been generally overlooked.