

Meaning of "Time of Election."

We have repeatedly given it as our opinion in these columns that the expression "time of election" used in section 76 of the Municipal Act, begins with nomination day, and that persons placed in nomination as candidates for election to municipal office, should possess the statutory qualifications upon that day, in order to meet the requirements of the law.

We noticed a letter in the St. Catharines Journal of the 12th of March, signed by one, David Jackson, in which the writer questions the soundness of this opinion. The following is a reprint of this letter :

To the Editor of the Journal :

SIR,—The time when a School Trustee could resign and be eligible as a member of the municipal council has been a matter of interest for some time. THE MUNICIPAL WORLD, usually a good authority on such matters, says he must resign before nomination day. With all due difference to THE WORLD'S opinion, the writer begs leave to differ, and to take a common sense view of the question, they would seem to be wrong. In the Municipal Act there are two separate divisions each of which makes the matter plain. Div. 1, under the head of "Qualifications" says a person must have "at the time of his election" so much property, etc., to be eligible, and it is mentioned four times in that section in connection with the proper qualifications, also in declaration of office it says, "at the time of my election," etc. Now that point is quite clear, if he does not have property enough on nomination day and is elected he could be disqualified. Div. 2, under the head of "Disqualification" says "no member of a school board where rates are levied" shall be a member of the council of any municipal corporation. There is nothing said about "time of election" but plainly "he cannot be a member of a council." Therefore it is perfectly clear that if he resigns from the school board according to law before election day and is elected he cannot be disqualified ; he would then be a member of the council but not a trustee and, in that case, doing all the law requires. Nomination last year was Dec. 22, election Jan. 5, school trustee elected Dec. 31. How could he resign from being a trustee before nomination day. The point is, "time of my election" refers to property qualifications and no other. Div. 2 makes it clear, he could resign between nomination day and election unless elected by acclamation which would then be his election day.

(Signed) DAVID JACKSON.

Fulton, March 5th, 1903.

The opinions we have given on this question were based on a number of decisions of our court. Last month Mr. Chief Justice Falconbridge handed out his decision in the case of Rex ex rel, Zimmerman v. Steele, in which the point

discussed by Mr. Jackson was directly in question. His Lordship confirms our opinion in the matter, as will be seen from a perusal of the facts of the case, and the judge's conclusion, which are as follows :

REX EX REL ; ZIMMERMAN V. STEELE.

This was an appeal by relator from order of Deputy Judge of county court of Welland dismissing the relator's motion in the nature of a *quo warranto* to void the election of the respondent as councillor for the third county council division of the county of Welland, upon the ground that at the time of the election the respondent was a member of the school board of school section 9 of the township of Humberstone, and was therefore not qualified to be a member of the county council. By 2 Edward VII., chapter 29, section 5; section 80 of the Municipal Act was amended, making a member of "a school board for which rates are levied" ineligible as a county councillor. *The chief question in this case was, whether the respondent by resigning his membership in the school board after the nomination and before the polling day had rendered himself eligible as a county councillor.* There was no school within the boundaries of this particular section, and no teacher taught within its limits. But the section was organized, with a secretary and treasurer, and the school rates levied on the section and other moneys received by the board under the act were paid by the board to the board of an adjoining section, which possessed accommodation for the school children living in section 9. Held, that the trustees of section 9 fell within the terms of the amending act, for rates were levied in this section at the instance of the school board for the section, and the ultimate destination of the money did not affect the point. Held, on the other point that, even assuming that section 76 of the Municipal Act does not, in view of the interpretation clause (section 2, sub-section 9) apply in terms to a county council, that section deals with qualification only, while section 80 deals with disqualification, and disqualification has relation to the *time of the election*, and not to the time of the acceptance of office. *The day appointed for the nomination is the day of the election, and the disqualification of a candidate has reference to that date.* Regina ex rel, Rollo v. Beard, 3 P. R. 367, and Regina ex rel Adamson v. Boyd, 4 P. R., 204, followed. No objection to the qualification was taken until the day of polling, on which day notices were posted up in five out of the twelve polling booths (there being no evidence as to the other seven), containing a warning to the electors not to vote for the respondent. Held, not a notice sufficient to entitle the relator to the seat. Appeal allowed, and order made declaring election of respondent invalid, and directing a new election, with costs to relator here and below.

We understand that the legislation disqualifying candidates who are members of school boards, will be repealed at the present session of the Ontario Legislature.

Townships Granting Bonuses to Builders of Wire Fences.

A correspondent has requested us to give a list of townships whose councils have passed by-laws granting bonuses for the erection of wire fences therein. The following is a list of such municipalities, with the names and post office addresses of their respective clerks :

TOWNSHIP.	CLERK.	POST OFFICE.	BONUS PER ROD.
Maryborough.	Ed. Dynes.....	Moorefield.....	12 1/2 cts.
Holland.....	J. P. Hare.....	Holland Centre..	20
Orillia	J. C. Rose.....	Orillia.....	25
Waterloo	G. A. Tilt.....	Blair.....	20
Wellesley	P. F. Schummer	St. Clements.....

Municipalities Owning Stone Crushers.

A subscriber has requested us to furnish a list of municipalities which own and operate stone crushers. Below are the names of these municipalities with the names and post office addresses of their respective municipal clerks :

TOWNSHIP.	CLERK.	P. O. ADDRESS
Derby.....	Wm. Beaton...	Kilsyth
Markham....	C. H. Stiver...	Unionville..
Ameliasburg..	Jas. Benson...	Ameliasburg.
Winchester..	Geo. Quart ...	Winchester..
Drummond..	T. B. Moore...	Perth.....
Cornwall	John Mullin.	Cornwall Cen.
Nottawasaga..	L. Macalister..	Duntroon...
Smith.....	F. J. Bell....	Peterborough
Mountain....	Hugh Martin..	Hallville....
St. Vincent..	G. G. Albery..	Meaford....
Hawesbury, E. L. J.	LaBrosse..	St. Eugene..
	F. W. Thistle-	
	W. thwaite ...	Vankleek Hill
Kingston....	John Simpson.	Cataraqui...
Hallowell....	T. H. Morgan.	Bloomfield..
Thessalon....	T. E. Clinton..	Thessalon...