

the land is given to the son John for his own use and benefit forever, subject to the payment of \$500 to the daughter Lizzie when she shall come of age. By the codicil ("in addition to my will") the farm is given to George Howes to hold for his own use and benefit as a maintenance and support for the children John and Lizzie until they come of age. George has the possession till then, and the fee simple, subject to George's limited estate, is in John. Costs of all parties of the contest as regards the insurance moneys to be paid out of that fund. As to the rest of the litigation each party to bear his own costs.

WINCHESTER, MASTER.

APRIL 6TH, 1903.

CHAMBERS.

REX EX REL. O'DONNELL v. BROOMFIELD.

*Municipal Elections—County Councillor—Disqualification—Membership in School Board for which Rates are Levied—Statutes—Saving Clause—Relator Claiming Seat—Necessity for Notice at Nomination—Costs of Quò Warranto Application.*

Application in the nature of a quo warranto to set aside the election of the respondent as a county councillor for division No. 7 of the county of Ontario and to have it declared that the relator was entitled to the office instead of the respondent.

The relator alleged that at the time of the election, and before and after it, the respondent was a member of a school board for which school rates were levied, namely, of the board of school trustees for school section 3 in the township of Mara, and was therefore disqualified.

The respondent admitted that he was a school trustee at the date of the election, but shewed that he had resigned that office before taking the oaths of qualification and office and before taking his seat as a county councillor.

J. A. McGillivray, K.C., for relator.

J. E. Farewell, K.C., for respondent.

THE MASTER.—It appears to me that the object in making this application is not so much to have the election of the respondent set aside as to have the seat awarded to the relator without running the risk of a new election. Under the authorities the relator is not entitled to the seat. To entitle a candidate to the seat claimed by him, on the ground of his opponent's disqualification, it must be shewn that the qualification was objected to at the nomination, so that the electors