

vision, requiring publication for at least one month in some newspaper in the locality.

Here the objection is that as to two out of three of the local newspapers, the notice only appeared three times, instead of four.

I think we are bound to hold that the notice to the public is to be governed by the provisions of the Municipal Act.

The Municipal Loan Fund Act (16 Vic. ch. 22), and again Con. Stat. Can. ch. 88, provides for the passing of by-laws for aid to railroads and other public objects, after a month's notice and publication "in some newspaper," &c.; and formal provisions are introduced for ascertaining the assent or refusal of the ratepayers by the votes of those present at appointed meetings, and giving power to demand a poll; and the majority of votes polled is to be certified, &c.

In some places the words are, "the qualified municipal electors, or such of them as choose to attend the meeting shall take the by-law into consideration, and approve or disapprove of the same": sec. 18, ch. 88: 1859.

In *Boulton v. Corporation of Peterborough* (16 U.C.Q.B. 380) the by-law was submitted to a public meeting of the electors: it was carried, and no poll demanded.

The objection was taken that the consent of the majority of the electors was not obtained. The point does not seem to be much argued.

Sir J. B. Robinson says, "The first of the objections is, that the consent of the ratepayers had not been obtained. * * * By this we understand to be meant that the electors were not polled; but that could not be necessary unless some one objected and a poll was demanded. It is declared that the by-law was unanimously approved of by those present; and there is no evidence to the contrary." The case cited of *Bullings v. Corporation of Gloucester* (10 U.C.Q.B. 278) can hardly be considered as any authority on the point. The by-law was clearly bad, irrespective of the voting. No cause was shewn, and the proceeding was under a special Act.

We have directions in statutes for surveys and other matters, in which doubtless the proved assent of an absolute majority of parties interested is necessary. But this is wholly apart from any question of voting or ascertainment of majorities in prescribed manners, and confined to matters specially affecting individual properties.

We think the objection as to the by-law not being sealed, when submitted the electors, is untenable. It was only a proposed by-law, and did not become an actual by-law until approved of. It is easily distinguishable from the case cited from the Queen's Bench.

GWYNNE, J.—The Canada Southern Railway Act (33 Vic. ch. 82, sec. 5,) in my opinion, is to be read as conferring upon municipalities (in addition to the powers conferred upon them by the clause respecting municipalities in the Railway Act,) power to give money, by way of bonus, to the Railway Company, provided always, that no such bonus shall be given, except (as provided by the Railway Act in relation to the taking of stock, that is to say), after the passing of a by-law for that purpose, and the adoption of such by-law by the electors; provided always, that such by-law, to be valid, shall be made in conformity with the laws of the Province respecting municipal institutions; thus making the

validity of the by-law to depend wholly upon its conformity to sec. 195 of 29 & 30 Vic. ch. 61, which this by-law does. It is not, therefore, open to the first objection taken to it. There is nothing in the second objection; and as to the third, I entirely concur that the majority of the qualified persons who voted upon the by-law, must be taken to express the voice of the electors.

GALT, J., concurred.

Rule refused.

MUNICIPAL CASE.

REG. EX REL. COYNE V. CHISHOLM.

Municipal Election—Right of candidate to resign—C. S. U. C. c. 64, sec. 97, sub-sec. 6—Municipal Act of 1866, sec. 110, sub-sec. 6, and sec. 113.

A candidate for the office of reeve, who is proposed and seconded at the nomination meeting, may, with the consent of his proposer and seconder and of the electors present, withdraw from his candidature.

A voter, who nominated another for a municipal office, having at the meeting permitted his candidate to retire from the contest, without expressing at the time any objection to his withdrawal, cannot afterwards insist upon having the name of his nominee published in the list of candidates, or entered as such upon the poll book.

[Chambers, Feb. 10, 1871.—*Mr. Dalton.*]

The statement of the relator complained that Kenneth Chisholm had not been duly elected, and usurped the office of reeve of the village of Brampton, under the pretence of an election held on the 2nd January, 1871.

The grounds stated were: that at the nomination the said Kenneth Chisholm, Jacob P. Clark, James Fleming, John Haggart, and the relator, were duly proposed and seconded as candidates for the said office of reeve, and that no other candidates were proposed within one hour after the meeting of the electors for the said nomination: that the said John Haggart was proposed for the said office by the said Kenneth Chisholm, and seconded by the said relator: that no one of the said persons so nominated retired or withdrew from the said nomination within one hour from the time the said meeting was held and the said nominations were made: that no poll was demanded for the said office of reeve, but a poll was granted and allowed by the said returning officer: that a show of hands was called for on behalf of John Haggart, and a large majority of the electors present appeared to be in his favor: that the said John Haggart then said (but after a considerable number of the electors who had been present had left the meeting) that he would retire from and not contest the said election: that the relator, who was his seconder on his said nomination, never consented to the retirement of the said John Haggart, and on the day following the said nomination informed the said returning officer that he must post up the name of John Haggart as one of the persons proposed as reeve, as he, the relator, insisted that Haggart should be voted for at the election: that John Haggart himself notified the said returning officer, two days before the election, that he was a candidate for the said office, and requested the returning officer to enter his name on the poll-book as a candidate: that the returning officer did not post up in the office of the clerk of the said village, or anywhere else, the name of John Haggart as one of the persons proposed as reeve, but refused so to do, and his name was not at any time so posted up: that on January