

electd prior to the passing of the Act," relieved the respondent from the disqualification, as he had been elected trustee, or a member of the school board, prior to the passing of the Act. In my opinion, this contention cannot be sustained. The statute is dealing with members of municipal councils mentioned in sec. 80 of the Municipal Act elected prior to the passing of the Act of 1902, and their disqualification, and not the election of members of school boards. As to the time of the disqualification, I would refer to Regina ex rel. Rollo v Beard, 6 U. C. L. J. N. S. 126.

I therefore hold that the election of the respondent . . . must be set aside and a new election had. For the reasons mentioned at the end of the judgment in Regina ex rel. Rollo v. Beard, the respondent must be unseated with costs.

FEBRUARY 27TH, 1903.

DIVISIONAL COURT.

RUSSELL v. EDDY.

*Costs—Third Party—Dismissal of Action—Plaintiff Ordered to Pay Costs—Rule 214—Discretion—Appeal.*

Appeal by plaintiff from judgment of MEREDITH, J., dismissing the action, and directing that plaintiff should pay the costs of a third party brought in by defendant, as well as defendant's costs.

W. H. Blake, K.C., for defendant, contended that defendant should in any event pay the costs of the third party.

T. E. Godson, Bracebridge, for defendant, contra.

The appeal was dismissed as to the merits at the argument. Judgment was reserved as to the question of costs.

The judgment of the Court (MEREDITH, C.J., MACMAHON, J.) was now delivered by

MEREDITH, C. J.—It was contended that the trial Judge had no power under the Rules to order a plaintiff whose action is dismissed to pay the costs of a third party, and in support of this contention Tomlinson v. Northern R. W. Co., 11 P. R. 419, 526, and Williams v. South Eastern R. W. Co., 26 W. R. 352, were cited.