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NO RECOUNT IN QUEENS

(Continued from page one)

belief of the applicant? If this inference is not to be drawn why was the change made and what other construction can be placed on the action there taken.

In the affidavit in this case the applicant does not venture beyond his mere belief "That I verily believe that the Deputy Returning Officer at Long River Poll... made an incorrect statement of the number of ballot papers cast etc." "That I have reason to believe and do believe that the said Deputy Returning Officer also several other Deputy Returning Officers for several other polls improperly counted ballots in favor of the said Alexander J. McNevin & Co. No facts whatever are given in any part of the affidavit from which it could be justified in drawing the conclusion that the Deputy Returning Officer at any poll at this election had committed any irregularity in counting the ballot papers. In my view it is facts and not beliefs or opinions which require a proper reading of the section requirements.

Mr. Warburton urged upon me and endeavored to draw a distinction between this case and the cases cited on the argument that the applicant Cousins was himself at the Poll in question when the counting took place and for that reason his belief should receive greater weight than one who rests his belief upon hearsay. Mr. Cousins presence at the counting the better enabled him to state facts if there were any to be stated. If there were any votes improperly counted he could state in what respect they were objectionable and not to be counted. If there were any improperly rejected which should have been counted for him he could point out why they should have been counted and if the votes were improperly added up surely he or some one else must have made an addition which differed with that made by the Deputy Returning Officer and if so why was not this stated in the affidavit. The statement of the number of ballot papers cast for any candidate could only be incorrect if he improperly counted or improperly rejected any ballot papers or improperly added up the votes.

That Mr. Cousins, who was present watching the counting abstains from stating that he saw any specific act of wrong doing on the part of the Deputy Returning Officer at this poll affords a presumption that none took place. The provisions of the Election Act are made to safeguard the rights of all parties. In my opinion it was never intended that they should be used to harass and put to expense a candidate whom the returning officer has declared duly elected on the mere suspicion or belief of any applicant that irregularities have been committed by Deputy Returning Officers in the counting of the ballot papers.

I am led to this conclusion not only from a consideration of the words of section 151 and of the history of this section but from a careful perusal of the following authorities: Re. J. L. Young Manf., Co., 1900, 2 Ch. 753. North Cape Breton and Victoria Election 6 E. L. R. at pps. 37 and 532. In re Carlton Election 10 E. L. R. at pps. 68 and 141. In re Sudbury and Queens Election 10 E. L. R. 221.

It was suggested by Mr. Palmer that having made the order for a recount, I am functus officio and have no power to alter or set it aside. This involves the question whether a County Court Judge, when hearing an application for, or conducting a recount, acts in a judicial or ministerial capacity. The authorities are very clear that the County Court Judge in all the proceedings of a recount under the Election Act exercises judicial functions—

McLeod vs. Noble, 28 Ont. Rep., at p. 546. In re Thornbury Election Petition, 16 Q.B.D., at p. 751. Per King Justice ex parte Baird, 29 N.B.R., at p. 198. Reg vs. Owens 5 Jurist N.S., 764. Pritchard vs. Mayor of Bangor, 13 app. cas 214. Per Townshend C.J., in North Cape Breton Election, C.E. L.R., at p. 38. The jurisdiction I have on the matter of this recount is purely statutory and the tendency of courts is to interpret these statutes literally and with great strictness. The question here is whether I had or had not jurisdiction to grant the order now in question. It will not be contended that I had any power to make an order for a recount under the preliminary requirements of a sufficient affidavit and the necessary deposit with the clerk as a security had been made I have already held for the reasons given that the affidavit does not comply with the requirements of section 151 and is consequently insufficient. Compliance with these preliminary requirements

would have given me jurisdiction and the order would stand. Not having jurisdiction in consequence of a defective affidavit the order is void and no further proceedings thereunder can be had. What effect can be given to a void order? Mr. Palmer furnished me, in support of his suggestion, with the judgment given by Mr. Justice Lamont in Chambers in the Supreme Court of Saskatchewan in the Re Pinto Creek Election case reported in 22 Western Law Reporter p. 60. In that case the Judge held that the affidavit upon which the County Court Judge made the order for a recount was sufficient and being sufficient he had jurisdiction and that no subsequent application should be entertained to set aside the order on the ground of the insufficiency of the affidavit. There is in that case no full report of the affidavit's contents. It does not appear to have been founded on the belief of the applicant as in this case. Besides the remarks of the Judge are simply obiter dicta seeing that he held he had no jurisdiction to entertain the application to compel the County Court Judge to hold the recount.

I shall not proceed with the recount applied for and I order that the order granted by me herein on the second day of October 1915 be set aside and vacated and that the returning officer and his clerk be discharged from further attendance and that the deposit of \$100 be returned to the applicant or his attorney.

ANNUAL MEETING DALTON FOX CO., LTD

The annual meeting of the Charles Dalton Silver Black Fox Co., Ltd., was held in the Knights of Pythias Hall yesterday afternoon. Mr. Charles Dalton presided and opened the meeting by reading the following report:—

DIRECTORS' REPORT.
To the Shareholders of "The Charles Dalton Silver Black Fox Company, Limited."
Third annual report by the directors on Thursday the 7th day of October, A.D. 1915.

Ladies and Gentlemen.—At the close of the Company's third season's operations, your directors report as follows:—
The season of 1914-15 has been a very unfortunate one. No less than 15 litters of young pups were destroyed by the parent foxes. There can be no doubt whatever but that the litters were all born and the mother foxes were in excellent condition. The directors and the Veterinary person-ally examined all the mother foxes and found them healthy and with milk. Your Directors have been unable to find any cause for the destruction this year, by the destruction of the young pups. Last year a loss was easily explainable owing to heavy storms that prevailed, but there were no such storms to account for the loss of this season's young. Since arranged with Dr. Lundie to reside at the ranch and personally attend to the foxes during and after the mating season, and hope that as a result there will be no losses of consequence during the coming season.

Inasmuch as an idea prevails that the removal of the ranch from Tignish was the cause of the destruction of the young foxes by the old ones, your Directors have decided to test the matter by removing three pairs of old foxes back to the old ranch in Tignish, where Mr. Dalton has made arrangements for putting them in widely separated positions in the original Tignish ranch. In this connection it is worthy of note that a pair of board-ers, purchased from the Dalton ranch three years ago, and which has not raised any young during the first two seasons of boarding, this year produced and raised a litter of five splendid pups.

In January one female fox was killed by her mate, almost every bone in her body having been broken, and the pelt very badly cut up and slobbered with saliva. It was a difficult matter even to skin it. There were 30 or more holes in the pelt. After being prepared as well as possible, it was sent to the London market and in the last June Sales realised £260 (\$300), which, under the exceptional circumstances, and considering the fact that the war has most seriously affected sales, your Directors consider an excellent sale and sustaining the ranch's reputation for the highest class of fur.

In connection with the sale of pelts, Mr. Dalton has offered to go this autumn to New York, St. Louis and New Orleans to study their markets. We have no doubt but that valuable information will result from his enquiries.

The expenses of the ranch have been cut down to the lowest possible limit. Dr. Lundie, who has taken the utmost interest in the industry, has voluntarily assumed full charge of a

salary only half of that which he previously received, while the Managing Director has acted without any remuneration since the losses occurred, and the other Directors have given and are giving their services freely in the earnest hope that during the coming season the ranch may be more fortunate and that satisfactory returns may again be had.

As the expenses of the Company have been running on for some time, while no returns have been coming in, there is now a considerable overdraft, and provision has to be made for carrying on the business for the next twelve months. For this purpose, the Directors recommend that an assessment of 2½ per cent. on the capital stock be made upon all the shares, the same to be refunded out of the first profits made.

While bitterly disappointed at the unfortunate results of the last season's operations, the Directors yet firmly believe that the ranch will again prove a paying business, and that the cause of the destruction of their young

by the old foxes will be found and removed, when a new era of prosperity may be confidently expected.

As Mr. W. B. Prowse, our Secretary and Managing Director, leaves for the front as an officer in the Battery of Heavy Artillery raised here this summer, he will be unable to again accept the position of a Director. His brother Directors deeply regret losing Mr. Prowse's services, as he was a most energetic and valuable member of the Board.

The Directors regret to have to announce the death of their caretaker at the ranch, Mr. John Gaudet, who died at midsummer. He had been in Mr. Dalton's employ for several years before this Company took over the ranch and had been with it ever since, and was a faithful and industrious employee.

The registration of foxes at the ranch has now been carried out. There are now in the ranch 48 foxes belonging to the Company, also two pairs in which the Company have a 15 per cent. interest (being their

share of the output of the pair of boarders hereinbefore mentioned) and also the original pair of boarders. The Directors have agreed to board these foxes for the coming season at 25 per cent. of the young produced by them.

All of which is respectfully submitted.
Dated the 7th day of October, A.D. 1915.

The report of the Financial Secretary showed a loss for the year of a little over \$7,000. The directors explained that the expenses for the coming year would be \$2,500.

The total indebtedness of the company is about \$18,000, while the amount necessary to be paid at once is slightly under \$12,000. This sum is to be raised immediately by a contribution of the shareholders, agreed to at the meeting yesterday, of \$2 per share.

At times the meeting was somewhat stormy, but it ended with a good feeling on the part of all and the unanimous re-election of all the Island directors and also of Mr. Loggie, of New Brunswick. Mr. Smith,

director for Nova Scotia, resigned. A vote of thanks to the directors was passed for their services during the past year. For the most part a spirit of optimism prevailed, but, as is usual in P. E. Island meetings, the event-present pessimist was rather loud-spoken. Happily, however, very little notice was taken of him by the body of the shareholders.

WISHED TO BE A SOLDIER

A little lad who had been intently watching the bronzed soldiers who had just returned from the front, presently looked up and said, "O, mamma, I wish I could be a soldier. Why can't I?" "Well, dear," said his mother, "you are not old enough, besides you would have to leave nurse, and you would not like that." "Oh, I should take her with me." "But, dear, soldiers can't take nurses about with them." Yes, mamma, they can. Why, on Sunday when we go into the park all the soldiers we see have nurse-

BRINGING UP FATHER

