

RODGERS' CITIZENSHIP.

Judge Van Fleet Decides Against the Chief of Police.

His Election is Annulled—Rogers Will Appeal to the Supreme Court.—Some Opinions.

The anxiously waited-for decision in the case of Rogers vs. Van Fleet, rendered by Judge Van Fleet yesterday forenoon, as predicted in the Record-Union.

The decision is a lengthy one, and goes largely into details. The court holds that Rogers was not eligible at the time of his election, not being a citizen of the United States at that time, and the election is declared null and void.

The plaintiff in this action is the uncle of ex-Chief of Police Warren F. Drew, and while the complaint sets forth that the suit is brought by M. M. Drew, it is in his capacity as a "next of kin" and elector.

THE DECISION.

Full Text of Judge Van Fleet's Judgment in the Case.

Following is Judge Van Fleet's decision in full:

At the municipal election held in the city of Sacramento, in 1891, the plaintiff, Warren F. Rogers, received the highest number of votes cast for the office of Chief of Police of said city and was thereupon declared elected to said office.

The defendant, Warren F. Drew, an elector of said city, commenced proceedings to annul the election of Rogers, on the ground that respondent was not at the time of his election eligible to such office, in that, as alleged, he was not a citizen of the State of California, nor a citizen of the United States.

The evidence shows that respondent did, in February last, just prior to the election, apply to the Superior Court of this county and was admitted to citizenship, but I am satisfied, as contended by the defendant, that this admission was not taken in time to be of any avail to render respondent eligible, not in the sense of section 1083 of the Political Code, but in the sense of section 1, article II, of the Constitution.

"Every native male citizen of the United States * * * and every male naturalized citizen thereof, who shall be at least twenty-nine days prior to any election, of the age of twenty-one years, who shall have been a resident of the State of California for at least ninety days prior to any election, in which he claims his vote ninety days, and in the election precinct that he claims his vote, shall be enrolled on the Great Register of such county as a qualified elector."

"From these provisions it appears that to be eligible to a civil office in this State one must be a qualified elector, and in order to be a qualified elector one must be a citizen of the State of California, and in order to be a citizen of the State of California one must have been naturalized at least ninety days prior to the election."

On the question of respondent's age, William A. Rodgers testified, on direct examination, that he married the mother of respondent in the year 1875; that her maiden name was Mary Baxter, and she was separated from her husband, that she lived with him until her death in 1878, and respondent lived with them during his boyhood. They came to Sacramento in 1877, and respondent was born in 1878, and on or about the 30th day of August, 1878; and thereupon it became a material matter of inquiry under the section of the Revised Statutes above quoted whether respondent was at that date under the age of 21 years.

On cross-examination the witness testified that he had known respondent for three or four years before they were married; that when he first knew her she was "a boy running around," and that "he talked like a little boy that was running around;" that Mrs. Baxter also had a little girl at the time, called Fannie, whom he thought, who died in Sacramento some years later, that Fannie could talk some like respondent when he first knew Mrs. Baxter.

On redirect examination by respondent's counsel witness testified that he did not remember how long he had known Mrs. Baxter before they were married; that he was married in 1875, and that respondent was about a year old, but on cross-examination it was shown that he had known her before their marriage.

Some considerable question had been raised in the community as to his eligibility for the office, he wrote a letter to the Attorney-General, in which he made a statement of the facts, as understood by him, and in which he stated that he was not a citizen of the United States at the time of his election, and that he was of the age of 23 years, 3 months and 15 days.

From this evidence it would seem impossible to draw but one conclusion as to the fact of his age, and that is that respondent was considerably less than the age of twenty-one years at the date of his father's naturalization. If he were twenty-one years old on July 24, 1871, when he went upon the Great Register, he was certainly much past that age on August 30, 1878, and hence it is reasonable to conclude that he was not a citizen of the State of California at the time of his election.

It is not necessary to go into a detailed recital of the facts of the case, but it is sufficient to say that the evidence is entirely inconsistent with the claim made as to the date of his birth. It requires only a casual examination of the evidence to demonstrate that it is 27 years of age in 1878, and that he was born in 1851.

The respondent says himself that prior to being told by W. A. Rodgers, he was of the age of 23 years, 3 months and 15 days, and when he was told that he was of the age of 27 years, he was so surprised that he believed that he was of the age of 27 years, and that he was of the age of 27 years, and that he was of the age of 27 years, and that he was of the age of 27 years.

There is nothing in the point made by respondent that if he was under twenty-one years of age at the time of his father's naturalization, that he was not a citizen of the State of California at the time of his election, and that he was not a citizen of the State of California at the time of his election, and that he was not a citizen of the State of California at the time of his election.

It is suggested by respondent that these provisions of the Political Code do not apply to elections for municipal offices, but this question was determined by the court in the case of Rogers vs. Van Fleet, 46 Cal. 402. The court held that the provisions of the Political Code, as before stated, are applicable to elections for municipal offices, and that respondent was not a citizen of the State of California at the time of his election.

By the naturalization of his father before he became 21 years of age, by the marriage of his mother to a citizen of the United States before he became 21 years of age, and by the fact that he was born in the United States, he is entitled to the citizenship of the United States, and he is entitled to the citizenship of the State of California, and he is entitled to the citizenship of the State of California, and he is entitled to the citizenship of the State of California.

On the question of respondent's age, William A. Rodgers testified, on direct examination, that he married the mother of respondent in the year 1875; that her maiden name was Mary Baxter, and she was separated from her husband, that she lived with him until her death in 1878, and respondent lived with them during his boyhood. They came to Sacramento in 1877, and respondent was born in 1878, and on or about the 30th day of August, 1878; and thereupon it became a material matter of inquiry under the section of the Revised Statutes above quoted whether respondent was at that date under the age of 21 years.

On cross-examination the witness testified that he had known respondent for three or four years before they were married; that when he first knew her she was "a boy running around," and that "he talked like a little boy that was running around;" that Mrs. Baxter also had a little girl at the time, called Fannie, whom he thought, who died in Sacramento some years later, that Fannie could talk some like respondent when he first knew Mrs. Baxter.

On redirect examination by respondent's counsel witness testified that he did not remember how long he had known Mrs. Baxter before they were married; that he was married in 1875, and that respondent was about a year old, but on cross-examination it was shown that he had known her before their marriage.

On the question of respondent's age, William A. Rodgers testified, on direct examination, that he married the mother of respondent in the year 1875; that her maiden name was Mary Baxter, and she was separated from her husband, that she lived with him until her death in 1878, and respondent lived with them during his boyhood.

He said that the minister was a friend of his, and that he had known him since he was a boy, and that he had known him since he was a boy, and that he had known him since he was a boy, and that he had known him since he was a boy, and that he had known him since he was a boy.

By the attorney—Then you were married in San Francisco? A—Yes. Q—Do you remember what street you were married on? A—I do not remember the first thing about it. Q—You remember the month of the year you were married in? A—Some time in the fall of the year. Q—You do not remember the month? A—No.

Being asked on direct examination how long he knew Mrs. Baxter before he married her, he said: "Well, I had known her about a year before I married her." On cross-examination, he said that he had known her for a longer time, and that he had known her for a longer time, and that he had known her for a longer time, and that he had known her for a longer time.

The respondent was of the age of 23 years, 3 months and 15 days, and when he was told that he was of the age of 27 years, he was so surprised that he believed that he was of the age of 27 years, and that he was of the age of 27 years, and that he was of the age of 27 years.

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