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BOYD, C.

OCTOBER 6TH, 1902.

CHAMBERS.

REX EX REL. ROBERTS v. PONSFORD.

*Municipal Elections — Irregularities at Poll — Aldermen of City — Election by General Vote — Voters Voting More than Once — Affecting Result.*

Appeal by relator from order of Master in Chambers (*ante* 590) dismissing application by relator to set aside the election of eleven persons as aldermen for the city of St. Thomas, at the general election held on the 6th January, 1902, upon the ground that the election was not conducted according to law.

J. M. McEvoy, London, for relator.

E. E. A. DuVernet and W. K. Cameron, St. Thomas, for respondents.

BOYD, C.:—While the matter is somewhat doubtful as to the case of the last successful candidate, Luton, it is very clear that the election of the other ten cannot be effectively impeached.

Luton polled 728 votes, and the next highest vote, of 706, was cast in favour of Price. Taking it that 90 votes, as found by the Master, were illegal—because that number of double votes were cast, contrary to the law as amended by the Municipal Amendment Act of 1901, sec. 9—and that all these votes could be attributed to Luton's total and deducted from it, that would leave Price ahead of Luton. But that would be an improper assumption. The error about double voting was a common one as to all parties. Luton himself was not active in the promotion of his election; he sought no votes in any way; and does not seem to have profited by the duplicate voting. The more reasonable assumption would be that the illegal and irregular votes were divided, and as many cast for Price as for Luton. Other makeweights of alleged irregularities cannot be brought in on the argument, which were not relied upon in the original notice, especially when they