

the purpose of promoting the election of the candidate, might be most illegal and corrupt, and the Court would be powerless to interfere. The purity of elections must, as far as possible, be secured. Every new scheme for avoiding the consequences of improper conduct must be met by such a construction of the statute as will enforce its provisions according to the spirit, due regard being had to the letter of the enactment. See observations of BOYD, C., in the *East Elgin Case*, ante. I agree that the election must be declared void, with costs.

NOTE.—An appeal was subsequently taken by the respondent to the Court of Appeal, but was dismissed with costs. This case does not appear in the regular reports, but is worthy of being of record.

IN RE NIPISSING ELECTION (DOMINION).

KLOCK v. VARIN.

*Petition against returning officer—Nomination—Postponement of election—
—Claiming seat—Prerogative.*

On the day fixed for the nomination the returning officer announced that there would be no meeting for the purpose of making nominations as there were no proper voters lists. He made a special return to the executive government, which issued a new writ, under which the present member was declared duly returned by acclamation. A petition was filed against the returning officer claiming the seat for the petitioner who claimed to be a candidate on the day of the abortive nomination.

Held, that there could be no relief under the circumstances. There had been no nomination, and there was no vacancy in the representation of the riding, and there was probably no jurisdiction to entertain the petition.

[North Bay, April 9, 1901.—BOYD, C., and MACMAHON, J.]

This was a petition presented under The Dominion Controverted Elections Act (R.S.C. 1886, c. 9), by J. B. Klock, a candidate at the last general election, against H. C. Varin, who was the returning officer, under the circumstances above referred to and set out in the judgment. The trial was held at North Bay on 5th April, 1901.

W. D. McPherson, and *J. M. Macnamara* (North Bay), for the petitioner. *Aylesworth*, K.C., and *Grant*, for the respondent.

BOYD, C.:—The jurisdiction conferred upon the Judges in regard to election petitions is to be found in the Act relating to controverted elections. The matters now in complaint, so far from involving the consideration of a controverted election, do not even reach the preliminary stage of an election, which is the nomination of candidates. For, rightly or wrongly, the returning officer (designated the respondent here) made up his mind, after taking legal advice, that as the election could not be prosecuted for want of proper voters' lists, it was better that it should not be begun. So he declared publicly, as well as to the expected candidates that there would be no meeting for purposes of nomination on the day,