

this case; and, if there be anything decided or said to the contrary in the cases of Farrell v. Gallagher, 23 O.L.R. 130, and McManus v. Rothschild, 25 O.L.R. 138, it ought, I think, for reasons which seem to me to be obvious, to be overruled.

I would allow the appeal; and refer the matter back to the Official Referee.

GARROW, MACLAREN, and MAGEE, JJ.A., concurred; MAGEE, J.A., stating reasons in writing.

Appeal allowed with costs.

JANUARY 15TH, 1913.

*REX v. MITCHELL.

*REX v. WEST.

Criminal Law—Perjury—Tribunal before which Offence Committed—Registrar under Manhood Suffrage Act—Irregularity of Apportionment—Tribunal de Facto—"Judicial Proceeding"—Criminal Code, sec. 171.

Crown case reserved by the Junior Judge of the County Court of the County of Kent, before whom the defendants were tried on charges of perjury and found "not guilty."

The case was heard by GARROW, MACLAREN, MEREDITH, MAGEE, and HODGINS, JJ.A.

J. R. Cartwright, K.C., for the Crown.

R. L. Bracken, for the defendants.

MACLAREN, J.A.:—These two defendants were tried in the County Court Judge's Criminal Court for the County of Kent, on a charge of perjury committed before one W. G. Merritt, acting as Registrar under the Manhood Suffrage Act for the Dominion Election of 1911.

The learned Junior County Court Judge found them both "not guilty," on the ground of alleged irregularities in the appointment of Mr. Merritt as such Registrar; but, at the request of the prosecution, granted a reserved case, and submitted five questions for the consideration of this Court, adding that,

*To be reported in the Ontario Law Reports.