

member of the House of Commons or to be on the register of voters." So fully did counsel for the appellants argue the case for the respondents that counsel for the latter were not called upon.

Bovill, C.J., said: "From the course which the learned counsel have taken, and properly taken, on the argument of these cases it seems hardly necessary for us to do more than to pronounce a formal judgment for the respondents, the learned counsel for both appellants agreeing that their claim to vote is untenable."

Keating, J., said he desired to "add an expression of my entire approval of the course pursued by the learned counsel for the appellants; and to say that I have yet to learn that it is otherwise than the duty of counsel to say so, when he finds a point not to be arguable. I have always understood it to be the chief function of the Bar to assist the Court in coming to a just conclusion."

Brett, J., however, was not so much enamoured of the course pursued by the appellants' counsel. He said it had "placed the Court in great difficulty." * * * "I quite agree," he said, "that it is the duty of counsel to assist the Court by referring to authorities which he knows to be against him. But I cannot help thinking that when counsel has satisfied himself that he has no argument to offer in support of his case, it is his duty at once to say so and to withdraw altogether. The counsel is master of the argument and of the case in Court and should at once retire if he finds it wholly unsustainable, unless indeed he has express instructions to the contrary. With the greatest respect for the two learned counsel who have appeared for the appellants in these cases, I must confess I do not quite approve of the course which they have taken."

Grove, J., the only other Judge, said: "It is a difficult task to pronounce a judicial decision in a case where one side only of an argument has been heard, and therefore I abstain from going into my reasons for concurring in this judgment."

If I might venture an opinion, it is that I concur with Brett and Grove. Had counsel for the appellant in an ordinary civil action pursued the course adopted by Messrs. Wills and Manisty, I can imagine with what amazement their client would have heard them, contending against the right they had been briefed to support. By doing so they were usurping the functions of the Court, and their client might very well say to them in the oft quoted language of Baron Bramwell, "I want your advocacy not your judgment. I prefer that of the Court."

A litigant's rights in law are those which the Court gives him and he is entitled to have these rights so determined. It sometimes happens that claims are adjudged to be good contrary to the opinion of the most eminent counsel. I well remember when I was a very young practitioner pleading a defence contrary to the opinion and advice of the late Chief Justice Howell, than whom this province never had a