

vitiates the vote, as being a means by which he could be identified, and in general other marks ought not to have that effect, and 5288 was properly rejected.

Ballot 2470 was marked by a somewhat irregular cross for Madole. This was rightly allowed.

Ballot 4064 had crosses in the divisions of both candidates. This was properly rejected.

Ballot 5256 was in the same plight. It was contended that there were indications of an intention to obliterate the cross in Madole's division. I think this is not a fair deduction. The ballot was properly rejected.

The result is that ballots 405 and 4004 should be added to Carscallen's poll and 4032 struck off Madole's poll, which gives Carscallen a majority of three.

MACLENNAN, J.A.

JULY 2ND, 1902.

C.A.—CHAMBERS.

RE NORTH GREY PROVINCIAL ELECTION.

BOYD v. MCKAY.

*Parliamentary Election—Recount of Votes—Ballot Paper—Distinct Cross—Obliterated Cross—Candidate's Name on Back of Ballot—Perpendicular Line instead of Cross—Horizontal Line instead of Cross—Straight Slanting Line instead of Cross—Words over Initials on Back—Cross on Back—Irregular Pencil Marking on, besides Cross—Evidence of Intention to Make a Cross.*

Appeal from a recount of ballots by the junior Judge of the County Court of Grev. The candidates were G. M. Boyd and A. G. McKay, and the County Judge found a majority of five votes for McKay. Both candidates appealed, and the appeal of Boyd was first proceeded with, the appeal of McKay being deferred.

S. H. Blake, K.C., and W. D. McPherson, for Boyd.

G. H. Watson, K.C., W. H. Wright, Owen Sound, and Grayson Smith, for McKay.

MACLENNAN, J.A.—It was objected by Boyd that a junior Judge had no jurisdiction to recount votes. I think that, as it appeared by the certificate that the junior Judge acted with the concurrence and approval of the senior Judge, the jurisdiction of the junior Judge was free from doubt; see secs. 124-131 of the Election Act, and secs. 2 and 14 of the Local Courts Act, R. S. O. ch. 54.

Four ballots (6418, 6241, 6427, and 6429) counted for Boyd at No. 9, St. Vincent, were disallowed by the Judge in consequence of being marked with a cross.