

Elect. Case.]

ONTARIO REPORTS—CORRESPONDENCE.

tion Law ; but I do not think I can properly do so. Looking at the ballots there could be no question as to whom the voter intended to vote for. The intention was manifest enough. A number of very important points are urged, and struck me as most worthy of mature consideration by a competent tribunal, but these are questions which on the ground I have before referred to, I think must be left to the decision of such a tribunal. I found the ballots in the parcels, and they were recognized as issued by the D. R. O. If, as suggested, the ballots were supplied because the R. O. had not sent sufficient printed ballots, I see that under sec. 30 the D. R. O. *can cause a ballot box to be made* if the R. O. has failed to supply one. Is this a less important act? But the Statute made no provision in respect to such contingency of ballots running short, and having provided in the other case, the maxim already referred to may well be urged; however, I am not concerned with the solution of this question with the view I have taken. In leaving this branch of the subject, I must say that while I feel strongly with regard to the other ballots challenged on the other general objections, I am by no means so confident with regard to these written ballots; but the very able argument on the subject by Mr. Lash is, I think, for a court capable of entering fully into the question, and not for me on a recount; and so I have allowed the written ballots. There are still left some sixty-eight ballots to be dealt with separately, to which special objections are taken. Some of these objections are remarkably minute and astute on both sides. If such objections are entitled to prevail, and people are held to pedantic accuracy, and the directions for voting must be followed so closely that every minute deviation will be held to vacate a vote, "the art of marking ballots" should have a place in our public school system, so that the rising generation may be taught how to vote, and a course of ballot drill might be necessary for the present race of voters before every election. I cannot think the law demands this extreme exactness in marking ballots.

The remarks in the Monck case upon this point must commend themselves strongly to every thinking mind. A large experience in examining ballots assures me of their truth. And when the ballot discloses with clearness, for whom the voter intends to vote, and there is a

reasonable compliance with the requirements by which a voter is to indicate on his ballot paper his final intention as to voting, I think it should be allowed. In rural constituencies especially, the wonderful variety of expression, so to speak, in the X is very striking—due, as suggested by V. C. Blake, doubtless to nervousness, awkwardness, or a desire to embellish, and I would add also, due in many cases probably to feeble or imperfect sight, marking on a rough table or bench, and sometimes, perhaps, to a whiskeyfied condition of the delineating voter.

CORRESPONDENCE.

Were ballots used in the late elections void if numbered by Deputy Returning Officers?

To the Editor of the LAW JOURNAL.

SIR,—Within the last few weeks opposite opinions on this question have been given by local judges and by counsel, as well as in newspapers. The question is not whether the Dominion Statute is the best law that could be framed on the subject, but what is the true interpretation of it as it stands.

Some contend that though this act expressly directs ballots to be rejected if they have on them identifying marks, nevertheless the general intentment of that law requires them not to be rejected if the mark has been made by a deputy returning officer. I oppose this contention.

I admit that the literal construction of any portion of a statute is no ground for deciding contrary to the general intent of the enactments as a whole, but there is danger in the ease with which one can persuade himself that he sees this intent, unless he will be guided by the ordinary meaning of the language which the legislature has selected to express its will.

As to the intent :—While listening to the arguments that the statute means each of these marked ballots to be counted if the purport of the vote can be ascertained, one might fancy that before the days of the ballot oppressed voters had been labouring under some difficulty in getting a vote recorded for their respective candidates, and that the ingenuity of legislators had been taxed to devise machinery which would make that more easy.